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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or Involuntary Disappearances

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Introduction

1. The Working Group presents herewith to the Commission on Human Rights the tenth report on its work, together with its conclusions and recommendations as requested by the Commission on Human Rights in resolution 1989/27. In preparing its report, the Group has kept in mind the many valuable comments and suggestions made during the Commission's debate in March 1989.

2. The report follows the pattern adopted during 1988, which was described in the introduction of the Working Group's report to the Commission at its forty-fourth session (E/CN.4/1988/19, paras. 1-5). The graphs included as an annex show the development of disappearances since the early 1970s in countries with more than 50 transmitted cases.

3. During 1989, the Working Group dealt with some 1,650 cases which occurred in 22 countries. In 1989, 721 cases were reported to have occurred in 14 countries. Cases submitted to or replies received by the Group after its last session (6-15 December 1989) have not been reflected in the report, with the exception of those situations to which, in accordance with the Group's methods of work, the urgent action procedure was applied.

4. At the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Group examined the draft declaration on the protection of all persons from enforced or involuntary disappearances prepared by its Working Group on Detention (see E/CN.4/Sub.2/1988/28, annex). The decisions adopted by the Working Group are contained in Section E of the present report. The Working Group intends to pursue consideration of the subject at its first session in 1990 with a view to providing the Sub-Commission's Working Group on Detention with observations based on the most up-to-date information received on the matter.

I. ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES IN 1989

A. Legal framework for the activities of the Working Group

5. The legal framework for the activities of the Working Group has been extensively described in its reports to the Commission on Human Rights at its forty-first to forty-fifth sessions. 1/

6. At its forty-fourth session, the Commission on Human Rights, in its resolution 1988/34, thanked the Working Group, in particular, for formulating its methods of work explicitly and in detailed fashion, and decided, in accordance with the recommendations of the Working Group, to extend the Group's mandate for a further two years, as laid down in Commission on Human Rights resolution 20 (XXXVI), so as to enable the Group to take into consideration all information communicated to it on the cases brought to its attention, while maintaining its annual reporting cycle.

7. At its forty-fifth session, the Commission on Human Rights, in its resolution 1989/27, decided to consider the question of disappearances at its forty-sixth session. The Commission repeated several provisions of its previous resolutions on the subject and thanked the Working Group for continuing to improve its methods of work and for recalling the humanitarian spirit underlying its mandate. It noted with interest the Working Group's intention to submit observations concerning the draft declaration on enforced or involuntary disappearances to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities at its forty-first session. It noted with concern that some Governments have never given substantive replies with regard to alleged disappearances occurring in their country, and urged all Governments, especially those in that category, to co-operate with and assist the Working Group so that it might carry out its mandate effectively.

8. The Commission repeated its request to the Secretary-General to consider ways and means of better publicizing the objectives, procedures and methods of the Working Group, and further requested him to ensure that the Working Group received all necessary assistance, in particular the staff and resources it required to perform its functions, especially in carrying out missions or holding sessions in countries which would be prepared to receive them. Governments concerned were again urged to protect the relatives of disappeared persons against any intimidation or ill-treatment to which they might be subject, and encouraged to give serious consideration to inviting the Working Group to visit their country. The Commission expressed its profound thanks to those Governments which had invited the Working Group and asked them to give all necessary attention to the Working Group's recommendations.

B. Meetings and missions of the Working Group

9. In 1989, the Working Group held three sessions: the twenty-seventh session in New York from 17 to 21 April, the twenty-eighth and twenty-ninth sessions in Geneva from 28 August to 1 September and from 6 to 15 December respectively. During these sessions, the Working Group held 11 meetings with representatives of Governments and 25 meetings with representatives of human rights organizations, associations of relatives of missing persons, families

or witnesses directly concerned with reports on enforced or involuntary disappearances. As in previous years, the Working Group examined information on enforced or involuntary disappearances received from both Governments and the above-mentioned organizations and individuals and decided, in accordance with its methods of work, on the transmission of the reports or observations received to the Governments concerned. On the basis of the information received, the Working Group also took decisions concerning clarification of the relevant cases.

10. At its twenty-eighth session, the Working Group received oral invitations to visit El Salvador, the Philippines and Sri Lanka. In subsequent consultations between the Group and the Permanent Representative of the Philippines to the United Nations Office at Geneva, it was envisaged that a visit to the Philippines would take place from 8 to 17 January 1990. At the twenty-ninth session, after having considered the circumstances prevailing in the country, the Group decided to postpone its visit to the Philippines since it felt that a visit at a later date would be more productive. Conditions during the originally envisaged period would limit the Group's possibilities to travel freely to all places it wanted to visit and to contact all authorities and witnesses relevant to its mandate. The Group therefore proposed to the Government that it would suggest new dates for the visit. In respect of the other invitations, the Group will consider them at its first working session in 1990 and thereafter propose to the Governments of El Salvador and Sri Lanka dates and modalities as appropriate.

C. Communications with Governments, non-governmental organizations and relatives of missing persons

11. In 1989, the Working Group received some 2,700 reports on enforced or involuntary disappearances and transmitted some 1,650 newly reported cases to the Governments concerned; 721 of these cases were reported to have occurred in 1989, 515 were transmitted under the urgent action procedure, and 112 were clarified in the same year. The remaining cases were referred back to the sources as they lacked one or more elements required by the Working Group for their transmission. The Working Group also reminded Governments of the outstanding cases and, when requested, retransmitted the summaries of those cases to them. All outstanding cases transmitted during the preceding six months under the urgent action procedure were retransmitted in January and June 1989. Governments were also informed about clarification of, or new information on, previously transmitted cases, as reported by the sources.

12. By a letter dated 1 June 1989, the Working Group drew the attention of the Governments of Iraq, El Salvador and the Philippines to the fact that the Commission on Human Rights, in resolution 1989/27, encouraged Governments concerned to give serious consideration to inviting the Working Group to visit their country, so as to enable it to fulfil its mandate even more effectively. The General Assembly expressed itself in similar terms in its resolution 43/159. In its letter, the Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the countries concerned and expressed the belief that a visit to the country mentioned would make an important contribution to its understanding of outstanding matters which fell within its mandate. During the Working Group's twenty-eighth session, invitations for

visits were extended to the Group by the Governments of El Salvador, the Philippines and Sri Lanka. The Working Group would like to express its gratitude for these invitations, which it considers representative of an increased degree of co-operation with the Governments concerned. Time and financial constraints have unfortunately prevented the Group from making any of those visits during its present mandate. Depending on the renewal of its mandate, the Working Group would give priority consideration to the three invitations it was unable to accept in the remaining months of 1989.

13. In accordance with a decision taken by the Working Group at its twenty-seventh session, a letter was sent on 23 May 1989 to the Foreign Ministers of countries visited by the Working Group in previous years, namely Colombia, Guatemala and Peru, reminding them of the conclusions and recommendations included in the respective reports on their countries and requesting information on the consideration given to them. The Working Group believes that the principle of following up missions, and in particular the implementation of its recommendations, is important because it allows the Group to acquire a greater understanding of the problems encountered and solutions found in this process by the Governments concerned. This is both an important link between past and present Working Group activities, and an illustration that the Group's examination of factors leading to enforced or involuntary disappearances in the countries concerned does not conclude with the completion of a mission report.

14. At the request of the United Nations Educational, Social and Cultural Organization (UNESCO), the Working Group sent to it information regarding the cases of 58 students and teachers missing in El Salvador, to be considered by the Committee on Conventions and Recommendations of the Executive Board of UNESCO at its forty-sixth session. The Working Group also invited UNESCO to submit any comments or observations with regard to the present report. In a letter dated 7 November 1989, the Committee communicated decisions it had taken at its September session regarding certain cases of alleged disappearances in El Salvador, Chile and Honduras in respect of which the investigations undertaken had produced no results and UNESCO again invited the Working Group to provide any further information it might obtain on the subject for submission to the Committee's first session in 1990. By a letter dated 1 December 1989, UNESCO informed the Working Group of the Committee's decision with regard to two cases reported to have occurred in Colombia and invited the Working Group to communicate to it any information it might have received on the same cases. In line with the established pattern of co-operation between the Working Group and the UNESCO Committee, the requested information will be placed at its disposal.

15. Several invitations were extended to the Working Group by non-governmental organizations to attend meetings and other events organized by them with regard to disappearances and related matters. Time and financial constraints made it impossible for the Group to attend most of these events, although it expressed in all cases its wish to receive information on the outcome of the meeting.

16. Mr. García-Sayán attended on the Group's behalf the Ninth Congress of the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM), held in Lima from 26 November to 2 December 1989.

Participants included 180 delegates and guests of national associations of FEDEFAM coming from Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, Peru, Uruguay and Venezuela. Relatives of missing persons once again highlighted the gravity of the problem, particularly in the country hosting the Congress, and analysed the efforts made in the concerned countries of the region to consolidate and further develop their respective organizations. Regret was expressed that despite efforts of over 10 years by certain associations, little had been achieved to contain the practice of disappearances. The Congress considered it essential that the entire society in a country participate in order to achieve progress in this respect.

17. It is worth while to note that the Group continued to receive petitions from private individuals and organizations expressing support for the adoption of an instructional instrument on enforced disappearances. The Group also noted with interest the results of a conference organized by Human Rights Information and Documentation Systems International (HURIDOCS), concerning the implementation of standard reporting procedure for human rights violations.

18. Local, regional and international non-governmental organizations also submitted reports about the general framework within which enforced or involuntary disappearances took place in each country. As in the past, one of the most serious problems set forth concerned the de facto impunity enjoyed by those responsible for disappearances in countries under review. That the culprits would be exempt from punishment for their actions contributed, in the estimation of these reports, to the continuing occurrence of disappearances.

19. The most important phenomenon relating to the problem of impunity was set forth as the de facto non-functioning of established judicial procedures charged with human rights concerns. Judicial procedures in many countries where disappearances had allegedly occurred often proved incapable of protecting the rights of detainees in military or police custody. Habeas corpus proceedings, for example, only infrequently resulted in the reappearance of the missing person. Furthermore, it was alleged that official inquiries into human rights violations very seldom led to the prosecution and conviction of military or police personnel. Paramilitary groups allegedly often enjoyed similar degrees of impunity.

20. According to non-governmental organizations, the non-effectiveness of judicial procedures, in most cases, was not a result of constitutional shortcomings or insufficient de jure powers of these bodies. On the contrary, many of the Governments concerned, especially civilian democracies elected after periods of military rule, had reportedly strengthened powers and widened the scope of institutions and procedures concerned with disappearances. For various reasons, however, such mechanisms had allegedly demonstrated shortcomings when implementing this authority. Judges and other responsible authorities had allegedly often failed to investigate human rights violations thoroughly. Those that had attempted to do so were reportedly confronted with intransigence on the part of military and police officials, who allegedly often restricted or refused access to detention centres, and failed to appear when summoned to court proceedings. Those leading investigations into disappearances were reportedly sometimes subject to death threats or murdered.

21. Communications received from non-governmental organizations, associations of relatives of missing persons and family members also revealed threats, harassment and violence directed at persons directly involved in the search for disappeared persons, at human rights activists defending or promoting cases of disappeared persons in judicial proceedings, and at witnesses capable of providing information on disappearances. These problems were reportedly accentuated by too strict an interpretation of rules of procedure on the part of official judicial organs which often rejected appeals by relatives searching for disappeared persons when the information they could provide had been prima facie too vague. Together, these factors allegedly helped to breed an attitude of mistrust among the general population towards official bodies, and a perception that judicial institutions and procedures were unable or unwilling to protect or promote human rights concerns.

22. Another phenomenon which also allegedly contributed to the problem of impunity was the responsibility held by military tribunals for investigations and prosecutions of human rights violations committed by police or military officials in the course of their duties. It is alleged that these authorities did not usually carry out impartial investigations, implement prosecutions proceedings, or convict members of such forces suspected of human rights abuses, and thus allegedly acted as a shield for these officials. This situation was allegedly particularly evident in countries where a rebel threat was present. In such cases, the Working Group noted that wide-ranging powers of arrest, detention and prosecution of those suspected of opposition to the Government was often given to military authorities. In certain countries, extensive legal, administrative and executive powers had been assumed by military authorities in regions where insurgency activity was greatest.

23. The Working Group also received reports that, in several countries where large numbers of disappearances had occurred, amnesty laws granting impunity from legal sanctions to alleged violators of human rights, including those responsible for disappearances, had been promulgated and implemented. The Working Group has consistently expressed its concern about such amnesties, which prevent families of disappeared persons both from continuing the search for their missing relatives through official judicial proceedings, and from obtaining an effective remedy for the violation committed. More generally, these measures, in maintaining structures responsible for enforced or involuntary disappearances, may leave the impression in the society that such crimes can recur in the future.

24. In this connection, the Working Group noted with interest the organization of a Tribunal Permanente de los Pueblos, a body concerned with the problem of impunity for human rights violators in Latin America. This tribunal expressed its intention to use recognized standards of international law prohibiting certain fundamental human rights violations, including disappearances, to analyse accusations received and to pronounce sentences on individual cases. In its judgements, it will hold the view, set forth in instruments of international law such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, that individuals shall have effective remedy for human rights violations, rendering illegitimate amnesty laws which exculpate those who commit crimes resulting in enforced or involuntary disappearances.

D. Development of methods of work

25. In its report to the Commission at its forty-fifth session, the Working Group described in detail the methods of work it has developed with a view to ensuring that sufficiently documented and clearly identified individual cases which families have brought to the Group's attention, directly or indirectly, are investigated and the whereabouts of the missing persons clarified.

26. In addition to the methods of work described in its report to the Commission at its forty-fourth and forty-fifth sessions (E/CN.4/1988/19, paras. 16-30 and E/CN.4/1989/18, para. 23), the Working Group decided to remind Governments, twice a year, of all urgent action cases transmitted during the preceding six months for which no clarification had been received. Under the terms of this procedure, letters were transmitted on 24 February and 4 August 1989 to all Governments concerned reminding them of urgent action cases during the year 1988 and for the period 1 January to 30 June 1989 respectively.

27. This year, the Working Group continued to consider specific matters relating to its methods of work, taking into account the comments made by several representatives of Member States in the debate during the forty-fifth session of the Commission on Human Rights. The Working Group noted, in particular, that several delegations had emphasized the need for the Group to give them an opportunity to comment on allegations reflected in the section of the Working Group's annual report dealing with information and views received from relatives of missing persons and non-governmental organizations, thus maintaining the principle of "equality of arms".

28. The question was discussed during the Working Group's twenty-seventh and twenty-eighth sessions, at which time it decided to transmit to the Governments concerned all allegations received by the time of the Group's twenty-eighth session with regard to the phenomenon of disappearances in their countries, inviting them to comment thereon if they so wished. This decision was taken as a means of facilitating co-operation with Governments concerned, and therefore is in accordance with the Group's fundamental objective, namely the elimination of enforced or involuntary disappearances. Consequently, it should be borne in mind that such allegations would be updated, if necessary, later in the year, and that non-governmental organizations would not be limited in their submission of cases, which would continue to be received and processed, in accordance with the methods of work, at any time during the Group's annual working cycle.

E. Draft declaration on the protection of all persons from enforced or involuntary disappearances prepared by the Working Group on Detention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

29. As set forth in its previous report to the Commission on Human Rights, the Working Group was asked by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, by resolution 1988/17, for its comments and suggestions regarding the draft declaration on the protection of all persons from enforced or involuntary disappearances.

30. Subsequent to this request, the Working Group examined, in early 1989, draft observations and comments received from inter-governmental and non-governmental organizations concerning the draft declaration. The Group, in particular, took into consideration the draft Inter-American Convention on forced disappearance of persons, which represents an important regional development in the establishment of standards and mechanisms concerning enforced or involuntary disappearnces. As well, it received information from the International Commission of Jurists, which had prepared a new draft declaration, the International League for Human Rights, the International Association of Democratic Lawyers and the Latin American Federation of Association of Relatives of Disappeared Detainees (FEDEFAM).

31. After having discussed the question of a draft declaration at its twenty-seventh session, the Working Group decided to transmit the following to the Sub-Commission:

> "The Working Group wishes to point to ongoing efforts outside the United Nations towards international standard-setting in this area, notably by the Organization of American States. The General Assembly of that organization has recently submitted to OAS member States for comments a preliminary draft of an Inter-American Convention on forced disappearance of persons. The Sub-Commission might wish to study this draft, prepared by the Inter-American Commission on Human Rights, as it contains many elements that are relevant to the consideration of the draft declaration. More generally, it would seem appropriate if the OAS and the United Nations exercises on this score would develop in a parallel manner and the two instruments be fully consistent.
>
> "The Working Group has noted that at the present stage the Sub-Commission's draft does not contain a definition of the term of 'enforced or involuntary disappearance'. Indeed, it would not seem necessary to include a fully-fledged definition, given the fact that a declaration does not warrant one to the same extent as a convention, in which the obligations of States parties need to be accurately delineated. Nevertheless, in the Working Group's view, the normative content of the declaration may be strengthened considerably if the main elements of what constitutes a disappearance, would be reflected in the preamble to the declaration. Based on its own description of a typical example of disappearance as presented to the Commission in 1988 (E/CN.4/1988/19, para. 17), the Working Group suggests the following language:
>
> "Deeply concerned that in many countries persons are detained or abducted against their will, for whatever reason, by officials of any branch or level of government or by organized groups or private individuals acting on behalf of or in connivance with the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge their arrest or detention, and that as a result such persons are placed outside the protective precinct of the law."

32. The Working Group wishes to caution against any reference to "political motives", as an indication of the grounds for the disappearance. Apart from the fact that such motives may be hard to prove in specific cases, a disappearance, in the Group's experience, often follows random arrests of

large groups of individuals. Also routine torture inflicted on the victims of indiscriminate police or army round-ups may result in a disappearance with a view to concealing the effects of the torture.

33. In addition the Working Group offers the following comments:

> "The text of article 1 is of a general nature and might therefore more suitably be placed in the preamble. Accordingly, it may be divided over two or three separate paragraphs. Also, the text mentions only a limited number of specific rights that are violated as a result of a disappearance, apart from a general reference to 'the' human rights contained in the Universal Declaration. As it may be difficult to mention all rights that may be violated by a disappearance in the declaration itself, the Working Group suggests that merely a general reference be included to 'a variety of civil and political, as well as economic, social and cultural rights', while stating that a disappearance, 'in particular, poses a grave threat to the right to life'.
>
> "Furthermore, there is no basis for including a reference only to the Universal Declaration and the Convention against Torture, while other international instruments that also have a bearing on the subject-matter are left unmentioned, such as the International Covenant on Civil and Political Rights and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. At the same time, not all States to which the declaration would be applicable are parties to all of the pertinent conventions. It may therefore be preferable to have a reference to the Universal Declaration only and merely a general reference to 'other relevant international instruments'."

34. On the other draft provisions, the Working Group submits that they might be enriched by incorporating elements taken from articles 4 to 19 of the draft OAS convention mentioned above. The articles may be reformulated to adapt them to the format of a declaration. In particular, the draft might benefit from incorporating provisions relating to disappearance as a common crime, habeas corpus, detention registers and children of disappeared (see articles 11, 15, 16 and 19 of the draft convention).

35. Building on the judgememt of the Inter-American Court of Human Rights of 29 July 1988, a new article may be considered, laying down that "the obligation of States, in whose territory the disappearance occurred, to investigate the fate or whereabouts of the person concerned and to inform the relatives accordingly is not subject to any limitation of time".

36. The subject of a draft declaration was discussed at length by the Working Group on Detention during the forty-first session of the Sub-Commission (see report of the Working Group on Detention, E/CN.4/Sub.2/1989/29/Rev.1). Several of the comments and observations provided by the Working Group were taken into consideration during the process of evaluation and modification of the draft declaration.

37. The Working Group on Enforced or Involuntary Disappearances considers the adoption of a draft declaration on enforced or involuntary disappearances as a fundamentally important contribution to the objective of several resolutions

of the General Assembly and the Commission on Human Rights, namely the elimination of enforced or involuntary disappearances. The lack of a specific instrument characterizing enforced or involuntary disappearances as a crime is, in itself, a situation which necessitates that the Group rely on a number of instruments, including the Universal Declaration of Human Rights, the two International Covenants, the Convention against Torture and all other Forms of Civil, Inhuman or Degrading Treatment or Punishment and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, when assessing the human rights violated by such an act. While all of these instruments contain elements relevant to enforced or involuntary disappearances, they lack an internationally accepted characterization of the phenomenon and its particular status as a crime in international law, as well as an elucidation of the concrete steps to be taken at a national level by judicial, military and police authorities in the attempt to clarify cases of enforced or involuntary disappearances and to prevent recurrence.

38. The Working Group would like to express its appreciation for the efforts made by the Working Group on Detention in this respect, and remains available if further contributions, comments or suggestions are required on this matter, with a view to the submission of a draft declaration by the Working Group on Detention to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities at its forty-second session.

II. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES IN VARIOUS COUNTRIES REVIEWED BY THE WORKING GROUP

Afghanistan

Information reviewed and transmitted to the Government

39. The Working Group's activities in relation to Afghanistan are recorded in its last three reports to the Commission. 1/

40. During 1989, the Working Group did not receive any new reports of disappearances in Afghanistan. However, by a letter dated 12 May 1989, it reminded the Government of the four outstanding cases transmitted in the past, in the earnest hope that all possible efforts would be made to clarify them. Again, there has been no response from the Government. The Working Group regrets, therefore, that it is unable to report to the Commission on the results of any investigations which might have been carried out.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	4
III.	Total number of cases transmitted to the Government by the Working Group a/	4
IV.	Government responses	0

a/ In his report to the forty-fifth session of the Commission on Human Rights, the Special Rapporteur on the situation of human rights in Afghanistan included a list of 30 persons who allegedly disappeared on 22 May 1979 in the district of Asmal, Kunar Province. Many of the elements required for processing those cases under the criteria established by the Working Group were found to be lacking. However, the source of the list has been requested to provide more precise information. It should further be noted that in accordance with its methods of work, the Working Group can only take action if reports on disappearances are sufficiently documented and emanate from the families or friends of the missing persons.

Angola

Information reviewed and transmitted to the Government

41. The Working Group's activities in relation to Angola are recorded in its last six reports to the Commission. 1/

42. No cases of disappearances were reported to have occurred in 1989. However, by a letter dated 12 May 1989, the Working Group reminded the Government of the seven outstanding cases transmitted in the past. The Government has provided no information on any of those cases; the Group, therefore, is still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	7
III.	Total number of cases transmitted to the Government by the Working Group	7
IV.	Government responses	0

Argentina

Information reviewed and transmitted to the Government

43. The Working Group's activities in relation to disappearances in Argentina are recorded in the last nine reports to the Commission. 1/

44. By letters dated 12 May, 4 October and 15 December 1989, the Working Group transmitted to the Government seven newly reported cases, one of which occurred in 1989 and the remaining six in 1976 and 1977. The Working Group provided the Government with updated information on two cases which had been transmitted previously. Concerning the two cases transmitted on 15 December 1989, it must be understood that the Government could not respond prior to the adoption of the present report. The same applies to general information submitted by the sources immediately prior or during the twenty-ninth session of the Working Group in December. On the other hand, the Working Group advised the Government that it had considered clarified five cases of disappearance, one of them on the basis of information provided by the Government and four on the basis of information provided by the source.

45. In a letter dated 12 May 1989, the Working Group reminded the Government of all outstanding cases and, by a letter dated 4 October 1989, informed it of reports it had received about developments in Argentina having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

46. Six newly transmitted cases were submitted by the Grandmothers of Plaza de Mayo and were reported to have occurred during the period 1976-77. Two of them concern a mother and her nine-month old child who were arrested together. Two other cases concern a father and his son, members of a family of four persons, who were all arrested, seen in detention in a clandestine centre known as "Orletti" and who subsequently disappeared. The last two concern men who were arrested together with their wives, also missing. The seventh new case, submitted by a lawyer and transmitted to the Government on 15 December 1989, concerns a person who took part in the assault on "La Tablada" barracks in January 1989 and disappeared after surrendering to the Army.

47. Regarding the cases which were retransmitted to the Government, the additional information, provided by the Grandmothers, referred to the fact that the two women involved were pregnant at the time of their arrest; the Grandmothers were also interested in the fate of the babies who could have been born in 1977 and 1978, respectively.

48. As for the four cases clarified on the basis of information provided by the Grandmothers of the Plaza de Mayo, two refer to children who disappeared after being arrested together with their mothers and were finally located in 1984 and 1988, respectively. The other two concern twins registered as the children of a former police commissioner who took them to Paraguay before haemogenetic tests to provide proof of their identity could be carried out. In 1989, the Paraguayan courts agreed to his extradition and the two children went back to Argentina where they underwent the tests which confirmed that they were born during the detention of their mother who is still missing. (The tests, however, did not confirm their identity as originally presumed by the Grandmothers). The Grandmothers reported as well that the Paraguayan courts had, so far, not agreed to the extradition of a former army major who also left for Paraguay when the tests to determine the identity of the two children registered as his own were to be conducted.

49. The Grandmothers of the Plaza de Mayo sent the Working Group the list of children located as at 15 February 1989. It refers to 48 children, 25 of whom have been returned to their real families, 13 of whom are still living with adoptive families but maintain contact with their real families, five of whom were killed and five whose cases are still awaiting a judicial decision. Referring to the latter, the Grandmothers indicated by letter dated 21 November 1989 that, as stated in the last report of the Working Group (E/CN.4/1989/18, para. 46), a committee of four members of the judiciary was set up in November 1988 and empowered to intervene in such cases. They pointed out that, although the committee's work was commendable, in practice, it was hampered by problems caused by delays in proceedings and the lack of resources for its operation.

50. Various human rights organizations (Centre for Legal and Social Studies, Relatives of Disappeared Persons and Persons Detained for Political Reasons, Mothers of the Plaza de Mayo (Línea Fundadora), Grandmothers of the Plaza de Mayo, the Oecumenical Movement for Human Rights, the Permanent Human Rights Assembly, the Commission of Mothers and Relatives of Missing Detainees of German Origin or Ancestry in Argentina and FEDEFAM) stated that they objected to Decree 1002/89 ("Indulto Decree") granting pardon or commutation of sentences to military officers already tried and convicted of human rights violations. According to these organizations, this latest measure further strengthened the process of impunity which began with the promulgation of Act No. 23.492 ("Punto Final Law") and Act No. 23.521 ("Due obedience law") and considerably reduced the chances of effectively investigating and shedding light on the fate of missing persons. The interruption of the proceedings against persons allegedly responsible for disappearances would make it impossible not only to punish them, but also to know exactly the real situation of the missing persons and thus to solve the moral, social, human and legal problems involved. Attempts were made to solve the legal problems through the "presumption of death" Act, under which a relative might appear in court and have the missing person declared dead. However, this did not take into account the fundamental human rights that had been violated. According

to the organizations, the above-mentioned acts did not solve the basic problem of determining where the disappeared were and they all disregarded the rights of the missing persons themselves.

51. By letter dated 13 December 1989, a group of Argentinian relatives and lawyers informed the Working Group that the interruption of criminal proceedings as a result of the above-mentioned legislation precluded any possibility of obtaining information on the fate of the missing persons. They had, therefore, filed a complaint before the Federal Court, against the State for not having provided to the missing persons and their families the right to an effective remedy and for not having complied with its obligation to allow the relatives and the courts access to documentation dating back to the period of the Military Government.

Information and views received from the Government

52. The case clarified on the basis of information provided by the Government refers to a person whose body was found in a cemetery and identified by experts of the Argentine team of forensic anthropology.

53. By different communications, the Government provided replies on seven cases. The replies refer to the proceedings engaged on each of these cases but do not clarify the fate of the missing persons.

54. During its twenty-ninth session, on 7 December 1989, the Working Group met with the Permanent Representative of Argentina to the United Nations Office at Geneva who explained the position of his Government with regard to recent developments in his country having an influence on the problem of disappeared persons and, in particular, on the pardon or commutation of sentences provided for by Decree 1002/89 of 6 October 1989. The Permanent Representative reiterated his Government's determination to try to clarify the outstanding cases and do all in its power to help the families. For this purpose, it had created the Argentine Team of Forensic Anthropology and the National Genetic Data Bank. The Permanent Representative added that the Team of Forensic Anthropology had recently identified the bodies of two more missing persons whose names he indicated. Furthermore, a system of pensions for relatives of missing persons had been created and, as of 29 November 1989, 4,500 applications for pensions had been submitted of which 3,558 were accepted.

55. The Permanent Representative further stated that the Argentine people were deeply convinced that the disappeared persons had died. Thus, the Government's efforts to clarify the cases was becoming more and more complicated. Although these efforts would continue in the future, the policy of national reconciliation was a priority for the Government in order to overcome the nation's past and present difficulties. This gave legitimacy from the moral and political point of view to the President's decision to promulgate Decree 1002/89, a power conferred on him by article 86, para. 6 of the Constitution. The pardon of 37 military officers involved in the illegal repression of terrorism did not erase their crimes but was necessary to initiate the process of reconciliation which had been accepted by the Argentine people and the international community, despite the opposition of different human rights organizations and political groups. The pardon did not interfere, however, with the position of principle of the Republic of Argentina, with regard to human rights, as demonstrated by the country's adherence to all major international instruments.

56. By a note verbale dated 4 December 1989, the Government transmitted a document in response to the reports communicated to it by a letter dated 4 October 1989. The document explains the pardon or commutation of sentences in the following terms: the pardon may be defined as the remission of penalty whereas the commutation consists of substituting for a legal penalty a lesser one. A pardon is an act that is manifestly political in character, and not jurisdictional. The Executive Power does not discharge the function of administering justice, but grants a "favour" and this presidential prerogative is part of his political activities. In the same way as when Congress orders an amnesty, the Executive Power must be motivated by obvious considerations of equity when it confers a pardon. The question arose as to the moment in time for the exercise of the granting of a pardon taking into account that article 95 of the Constitution states that in no case may the President interfere with trials in process. The Supreme Court at first maintained that a pardon may not be granted prior to the sentence on behalf of the defendant. Some years later, it changed its position to state that a pardon may be granted to a person awaiting trial and finally it reverted to its original position, respecting the application of a pardon to convicted persons. The prior report of the appropriate court is not binding on the Executive Power because although the court may consider that a pardon is not warranted, the President may grant it. The report in question may be advised, but its real function is not so much to counsel the President as to furnish him with the background information to the case. There is no conflict between the competence of the President to pardon and the human rights policy implemented in Argentina.

Statistical summary

I.	Cases reported to have occurred in 1989	1
II.	Outstanding cases	3,389
III.	Total number of cases transmitted to the Government by the Working Group	3,459
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	2,938
	(b) Cases clarified by Government's responses a/	41
	Cases clarified by non-governmental sources b/	29

a/ Persons released from detention: 19.
Children located by non-governmental organizations: 6.
Persons whose bodies have been located and identified: 9.
Persons whose cases were not disappearances: 7.

b/ Persons released from detention: 7.
Children found: 8.
Persons whose bodies have been located and identified: 14.

Bolivia

Information reviewed and transmitted to the Government

57. The Working Group's activities in relation to Bolivia are recorded in its last nine reports to the Commission. 1/

58. No cases of disappearance were reported to have occurred in 1989. However, by a letter dated 29 May 1989, the Working Group reminded the Government of the 29 outstanding cases transmitted in the past. In the same letter, the Working Group expressed its concern about the threats that, according to information from non-governmental sources, lawyers and members of the Association of Relatives of Disappeared Detainees and National Liberation Martyrs (ASOFAMD) have received because of their activities relating to disappeared persons in the context of the trial against General García Meza and his collaborators.

59. During the period under review, the Government has provided no new information on any of the outstanding cases of disappearances and the Group, therefore, is still unable to report on the fate or whereabouts of the missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations

60. By a communication dated 1 June 1989, the Permanent Assembly for Human Rights of Bolivia expressed general concern about the problem of disappeared persons in Bolivia and their subsequent fate. It was further reported that the activities of the National Commission of Investigation on Disappeared Detainees had been paralysed since the previous Government because of lack of budgetary resources.

Statistical summary

I.	Cases reported to have occurred in 1990	0
II.	Outstanding cases	28
III.	Total number of cases transmitted to the Government by the Working Group	48
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	33
	(b) Cases clarified by Government's responses a/	20

a/ Persons released from detention: 18.
Persons officially reported dead: 2.

Brazil

Information reviewed and transmitted to the Government

61. The Working Group's activities in relation to Brazil are recorded in its last nine reports to the Commission. 1/

62. No cases of disappearance were reported to have occurred in 1989. However, by a letter dated 12 May 1989, the Working Group reminded the Government of the 47 outstanding cases transmitted in the past.

Information and views received from the Government

63. By a letter dated 5 December 1989, the Brazilian Delegation for Disarmament and Human Rights informed the Working Group that the 47 outstanding cases of alleged enforced or involuntary disappearances concerning Brazil continued to be under the careful and detailed examination of the authorities of the Council for the Defence of Human Rights (CDDPH) of the Brazilian Ministry of Justice, under process No. MJ-13.748/79.

Statistical summary

I.	Cases reported to have occurred in 1990	0
II.	Outstanding cases	47
III.	Total number of cases transmitted to the Government by the Working Group	49
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	49
	(b) Cases clarified by Government's responses a/	2

a/ Persons in prison: 2.

Chad

Information reviewed and transmitted to the Government

64. The Working Group's activities in relation to Chad are recorded in its ninth report to the Commission. 1/

65. In 1989, the Working Group did not receive any reports on cases of disappearance in Chad. However, by a letter dated 12 May 1989, the Working Group reminded the Government of the outstanding case. The Government has provided no information on this case and the Group, therefore, is still unable to report on the fate or whereabouts of the missing person.

Information and views received from relatives of missing persons or from non-governmental organizations

66. The Working Group received from Amnesty International a number of reports of a general nature alleging that, for several years, Government opponents had disappeared after being arrested by the Security Service. Amnesty International, however, was unable to provide details as required under the Working Group's criteria. The Working Group intends to ask Amnesty International to provide such details in order to enable it take the necessary action.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	2
IV.	Cases clarified by Government's responses	1

Chile

Information reviewed and transmitted to the Government

67. The Working Group's activities in relation to Chile are recorded in its last nine reports to the Commission. 1/

68. No cases of disappearance were reported to have occurred in 1989. By letters dated 6 June, 29 August, 28 November, 8 and 15 December 1989, the Working Group transmitted 436 cases that occurred between 1973 and 1978. As regards the cases transmitted on 28 November and 8 December 1989, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

69. By letters of 24 February and 6 June 1989, the Government of Chile was reminded of all the outstanding cases by the Working Group. There has been no response from the Government, however, and the Working Group regrets that once again it is unable to report to the Commission on the results of any investigations which might have been carried out.

Information and views received from relatives of missing persons or from non-governmental organizations

70. One of the newly reported cases was submitted by a relative of the missing person and concerned a Catholic priest who disappeared in 1974. The other 430 cases were submitted by the Vicaría de la Solidaridad of the Archbishopric of Santiago on 13 March 1989 and concerned persons from different social strata (waiters, drivers, technicians, lawyers, doctors, students, craftsmen, manual workers, employees, traders, accountants, etc.) who disappeared in different places (Santiago, Valparaiso, Chillán, Arica, Talca, Pitrufquen, Cautín, Paine, Lota, Copiapó, Coelemu, San Miguel, Los Angeles, Linares, Osorno, Puerto Octay, Lautaro, Concepción, Santa Barbara, etc.) between 1973 and 1977.

71. Amnesty International and the Committee for the Defence of the People's Rights (CODEPU) expressed concern about a decision by the Chilean Supreme Court to block investigations into the arrest and disappearance of 10 communist party members in 1976 by using the amnesty law promulgated in 1978. According to these organizations the decision of the Supreme Court to reject two petitions for cassation against a 1987 lower court ruling, which had used the amnesty law to close the case permanently, means that no further judicial investigations can be carried out into these cases.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	462
III.	Total number of cases transmitted to the Government by the Working Group	464
IV.	Government responses	0
V.	Cases clarified by non-governmental sources a/	2

a/ Person released: 1
Person dead (body found and identified): 1.

China

Information reviewed and transmitted to the Government

72. The Working Group's activities in relation to China are recorded in its last report to the Commission. 1/

73. By a letter dated 15 December 1989, the Working Group transmitted to the Government of China 23 cases of disappearance reported to have occurred in 1988. As regards these cases, transmitted in accordance with the Group's methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

Information and views received from relatives of missing persons or from non-governmental organizations

74. The reported cases of disappearance were submitted by the Minority Rights Group. Nineteen of the cases were reported to have occurred in late September 1988 in the Qinghai province near Colmud. The missing persons were part of a group of 26 Tibetan monks who had reportedly been arrested in Nepal, interrogated by Chinese officials while in detention, and turned over to Chinese authorities at the Jatopani border; seven of them reportedly managed to escape on the way. The other cases concerned four monks who had been arrested in Tibet in the roundup that followed the Monhan festival in March 1988.

75. The Minority Rights Group expressed concern about the difficulties encountered by those searching for the disappeared persons. They reported that family members risked being arrested themselves if they made inquiries with local authorities. Information was allegedly only obtained through unofficial means, such as sightings by former prisoners or occasional pronouncements made by individual guards or other officials. The Minority Rights Group further alleged that a large wave of such arrests had occurred after the imposition of martial law in Tibet.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	24
III.	Total number of cases transmitted to the Government by the Working Group	24
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by Government's response	0

Colombia

Information reviewed and transmitted to the Government

76. The Working Group's activities in relation to Colombia are recorded in its last five reports to the Commission. 1/

77. During the period under review, the Working Group transmitted to the Government 18 newly reported cases of disappearance, 13 of them alleged to have occurred in 1989. One case was transmitted by a letter dated 20 September 1989, seven by a letter dated 15 December 1989 and 10 by various cables under the urgent action procedure. The Group also retransmitted to the Government a total of 19 cases containing additional information received from the sources. As regards the seven cases transmitted in December 1989, in accordance with the Group's methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

78. The Working Group advised the Government that two cases had been considered clarified on the basis of replies received from it and two on the basis of information provided by the sources. The Government was also advised that 29 cases would be considered clarified if the source did not raise objections within six months.

79. By a letter of 12 May 1989, the Working Group reminded the Government of the outstanding cases and expressed concern regarding the protection and security of members of relatives' organizations who had allegedly been subjected to harassment and death threats. By its letter of 20 September 1989, the Group also expressed concern about the killing by a paramilitary group of members of the Judiciary while carrying out investigations into cases of disappearance as well as the death threats addressed to many others.

80. The Group reminded the Government of 41 cases transmitted under the urgent action procedure in 1988 by a letter dated 24 February 1989 and of nine transmitted during the first six months of the year by a letter dated 4 August 1989 (see para. 26). By its letter of 20 September 1989 the Group informed the Government of reports it had received about developments in Colombia having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

81. In accordance with a decision taken by the Working Group at its twenty-seventh session (see para. ...), a letter dated 23 May 1989 was sent to the Government reminding it of the conclusions and recommendations included in the report on the mission to the country and requesting information on the consideration given to them.

Information and views received from relatives of missing persons or from non-governmental organizations

82. The new cases transmitted during 1989 were submitted by Amnesty International, the Association of Relatives of Disappeared Detainees (ASFADDES), the World Organization against Torture, and Justicia i Pau. The reported disappearances occurred between April 1985 and 1989 and the forces reported responsible were the Army (12), the Police (3), paramilitary groups (2) and the Administrative Security Department (DAS) (1).

83. Apart from specific cases, the Working Group also received information of a general nature concerning the human rights situation in Colombia as well as on particular problems related to the phenomenon of disappearances. As for the forces responsible for disappearances, the Group received reports referring to the co-operation which the paramilitary groups allegedly enjoy from agents of the State. It was stated that although the Government engaged in investigations and had arrested several civilians for their participation in those groups, the investigation into alleged connections with members of the armed forces or the police was not pursued with sufficient vigour. The organizations also mentioned that several decrees issued by the Government in April 1989 against "hired assassins or private self-defence groups" were a positive step. They referred, in particular, to Decree No. 815 which did not eliminate the so-called self-defence groups but restricted their creation and revoked the previous norm which authorized the armed forces to give military weapons to them.

84. The organizations also commented on some of the measures taken by the Government under the state of siege in order to combat drug trafficking. Thus, Decree No.1859 conferred upon public servants performing judicial police duties relating to the drug traffic or to the anti-terrorist statute the power to hold persons suspected of any of these acts incommunicado for a period of seven working days. There was no requirement that such suspicions should be substantiated. According to the organizations, this practice lent itself to many violations of human rights, such as disappearances and torture.

85. Information was also received on the problem of impunity and on the fact that only in very few cases those responsible for human rights violations and disappearances in particular had been charged and sentenced. Among the reasons which contributed to such impunity, the organizations mentioned the fact that offences committed by members of the security forces are to be brought before the military courts, as well as the fact that disappearance is not codified as an offence in the Colombian Penal Code.

86. Relatives and human rights organizations expressed concern about the functioning of habeas corpus since the amendments introduced by the Decree No. 182 of 1988 had seriously affected the possibility for individual citizens to avail themselves of this remedy effectively. As for the forensic procedures to identify unnamed bodies, they stated that they were not effective and the persons in charge of the investigation of cases were not taking the necessary steps to comply with them.

87. In connection with the disappearances from the Palacio de Justicia which occurred in 1985 (see E/CN.4/1989/18/Add.1, paras. 92-96), the organizations mentioned that the investigation carried out by a special commission under the chairmanship of the Deputy Attorney-General still continued with no results to date.

Information and views received from the Government

88. By different notes verbales the Government provided 231 replies on outstanding cases. The majority of them described the investigations carried out by a specific court or by the Office of the Attorney-General. On 33 cases the reply specified the present whereabouts of the persons.

89. The Government transmitted to the Working Group a document referring to several issues constituting a matter of concern for the Working Group. On the question of paramilitary groups, the Government stated that it had implemented specific measures to identify, combat and disband these groups. On the basis of investigations carried out by the security agencies, the Government had successfully exposed the network of links maintained by these groups with drug traffickers and had located their bases, where weapons, equipment and documents had been seized.

90. A number of emergency measures had been put into effect (Decrees Nos. 813, 814 and 815 of 19 April 1989) in order to render more effective the Government's efforts to combat criminal groups. The measures comprised: the establishment of special armed corps and the establishment of a special commission to define, co-ordinate and evaluate measures to control and combat those groups; effective control over the sale of weapons and suspension of a number of legal regulations which, in the opinion of some sectors, could be interpreted as providing legal grounds for organizing armed civilian self-defence groups.

91. The Government also reported that in all cases where information had been obtained or complaints made concerning the involvement of State officials in disappearances, independent and impartial investigation had been carried out. The Government was fully aware that some cases might be characterized by impunity, a situation which it was striving to avoid through the adoption of measures to strengthen judicial action and criminal investigations, and which under no circumstances it condoned.

92. The Government also transmitted to the Working Group a document referring to the measures adopted in connection with drug trafficking including regulations for the detention of individuals. According to these regulations, the Council of Ministers may order the detention of individuals when there is serious evidence that they are acting to disturb public peace. In cases of drug-trafficking, terrorism and related offences, a suspect may be arrested and held incommunicado for seven days.

93. During its twenty-seventh session, the Working Group met with a representative of the Government of Colombia who expressed his Government's determination to co-operate with the international human rights bodies. He referred, in particular, to the question of impunity and mentioned a decision of the Supreme Court of Justice of 14 February 1989 according to which crimes committed by military servicemen outside official duty are to be judged by the ordinary courts.

Views adopted by the Human Rights Committee concerning two cases of disappearance in Colombia (communication No. 181/1984)

94. On 3 November 1989, the Human Rights Committee adopted its views under article 5, paragraph 4 of the Optional Protocol to the International Covenant on Civil and Political Rights concerning a communication on the disappearance in Colombia in 1982 of two persons whose names also appear in the Working Group's lists relating to this country. The Committee's views are to be found in document CCPR/C/37/D/181/1984.

Statistical summary

I.	Cases reported to have occurred in 1989	13
II.	Outstanding cases	577
III.	Total number of cases transmitted to the Government by the Working Group a/	692
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	532
	(b) Cases clarified by Government's responses b/	87
V.	Cases clarified by non-governmental sources c/	28

a/ In a revision of the files, it was found that as of 9 December 1988, the total number of cases transmitted should have read 674 instead of 672 and the outstanding cases 563 instead of 561. The statistics were adjusted accordingly.

b/ Persons at liberty: 14
Persons released: 42
Persons in prison: 8
Person escaped from prison: 1
Persons dead: 21
Persons abducted by rebels: 1.

c/ Persons at liberty: 4
Persons in prison: 3
Persons released: 14
Persons dead: 7.

Cyprus

95. The Working Group's activities in relation to Cyprus are recorded in its nine earlier reports to the Commission. 1/ As in the past, the Working Group continued to remain available to assist the Committee on Missing Persons in Cyprus, as appropriate and when requested. The Working Group noted that in 1989 the Committee, whose activities were mainly based on the testimony of witnesses and investigations in the field, had held seven sessions involving 39 meetings during which it continued to examine the reports presented to it by the investigative teams under the responsibility of each side. In September, the members of the Committee made an informative visit to the Centre for Human Rights and the International Committee of the Red Cross and met, in particular, with one member and the Secretary of the Working Group.

Dominican Republic

Information reviewed and transmitted to the Government

96. The Working Group's activities in relation to the Dominican Republic are recorded in its last five reports to the Commission. 1/

97. During the period under review, no cases of disappearance were reported to have occurred in the Dominican Republic. By a letter dated 24 February 1989, however, the Working Group reminded the Government of a case transmitted under the urgent action procedure during 1988 which had not been clarified. On 12 May 1989 the Working Group also reminded the Government of the two outstanding cases which date back to 1984.

98. By a letter dated 15 December 1989, the Working Group informed the Government that two cases had been considered clarified, the respective source having confirmed one reply by the Government and not having contested the other.

Information and views received from relatives of missing persons or from non-governmental organizations

99. By a letter dated 16 October 1989, the Dominican Republic Committee for Human Rights (Comité Dominicano de los Derechos Humanos, CDH) confirmed the information provided by the Government in respect of one of the above-mentioned cases according to which the person concerned was living in Haiti since October 1984.

Information and views received from the Government

100. By notes verbales dated 22 March and 15 August 1989, the Permanent Mission of the Dominican Republic to the United Nations Office at Geneva provided three replies concerning three cases transmitted by the Working Group in 1984 and 1988 respectively. In respect of the cases transmitted in 1984, the Permanent Mission informed the Working Group that one person was living in Haiti, regarding the other, it reiterated information given previously that this persons had left home in 1984 according to statements made to the National Police by his sister, and that the Police carried out an investigation which yielded negative results. With regard to the case transmitted in 1988, the Permanent Mission informed the Working Group that the person had been released.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	3
	(b) Cases clarified by Government's responses a/	2

a/ Persons released from detention: 1
Persons living abroad: 1.

Ecuador

Information reviewed and transmitted to the Government

101. The Working Group's activities in relation to Ecuador are recorded in its last three reports to the Commission. 1/

102. No new cases of disappearance were reported to have occurred in 1989. By a letter dated 12 May 1989, the Working Group transmitted to the Government of Ecuador two newly reported cases that occurred in 1988; it also informed the Government that one case had been clarified by the source and two cases would be considered clarified by the Group provided that within six months of the date on which the replies were communicated to the relatives, they did not make any observation which required further consideration by the Working Group. By a letter dated 15 December 1989, the Group informed the Government that one further case was considered clarified, the source not having contested the Government's reply within the statutory six-month period.

103. By a letter dated 20 September 1989, the Working Group retransmitted to the Government two cases on which it had applied the six-month rule during the twenty-seventh session. On one of them additional information from the source had been received that contested the Government's reply according to which that person had been released. As regards the other case, the Working Group requested the Government to provide it with a death certificate of the person, and to explain what caused that person's death.

104. By a letter dated 15 December 1989, the Group advised the Government that, in revising the files, it was found that the total number of transmitted cases as of 31 December 1988 should have read 12 instead of 11 as mentioned in the Working Group's annual report to the forty-fifth session of the Commission on Human Rights and that the number of outstanding cases should have read five instead of four.

Information and views received from relatives of missing persons or from non-governmental organizations

105. The Ecuadorian Oecumenical Commission on Human Rights (CEDHU) submitted information on two newly reported cases that occurred in 1988 which concerned two young brothers who disappeared while driving their father's car outside Quito. It also communicated to the Working Group that the corpse of a person, whose disappearance had been submitted to the Group, was identified by the victim's relatives. CEDHU also provided further information on two cases which the Working Group transmitted to the Government in 1988 and retransmitted in 1989.

Information and views received from the Government

106. By notes verbales dated 26 January and 19 September 1989, the Permanent Mission of Ecuador to the United Nations Office at Geneva provided three replies concerning four cases, two of them transmitted in 1988 and two in 1989. The Government advised that one person had been released and the other had died of a heart attack in Police premises and that a judicial proceeding had been opened against two policemen; it further reported about the different steps taken in the investigation carried out by the Ecuadorian authorities between January 1988 and June 1989 which, however, did not yield positive results.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	6
III.	Total number of cases transmitted to the Government by the Working Group	14
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	13
	(b) Cases clarified by Government's responses a/	8
V.	Cases clarified by non-governmental sources b/	1

a/ Persons detained and duly tried: 2
Persons arrested and extradited to Peru: 2
Persons dead: 2
Persons living abroad: 1
Persons escaped from detention: 1.

b/ Body located and identified: 1.

El Salvador

Information reviewed and transmitted to the Government

107. The Working Group's activities in relation to El Salvador are recorded in its last nine reports to the Commission. 1/

108. During the period under review, the Group transmitted a total of 34 newly reported cases of disappearance to the Government that occurred in 1989, 33 of which were processed under the urgent action procedure and the other case was transmitted by a letter dated 20 September 1989. The Group reminded the Government of 27 cases transmitted under the urgent action procedure in 1988 by a letter dated 24 February 1989 and of such cases transmitted during the first six months of the year by a letter dated 4 August 1989 (see para. 26).

109. The Working Group advised the Government that nine cases had been considered clarified on the basis of replies received from it and five on the basis of information provided by the sources. The Government was also informed that ten additional cases would be considered clarified provided that within six months of the date on which the replies were communicated to the relatives, the latter did not make any observation which required further consideration by the Working Group (see E/CN.4/1988/19, para. 27). By its letter of 12 May 1989, the Working Group reminded the Government of all outstanding cases and requested it to clearly indicate the reasons that had led it to assume that six persons had been captured by the Frente Farabundo Marti para la Liberación Nacional (FMLN), as stated in one of its replies.

110. By its communication dated 1 June 1989, the Working Group also drew the Government's attention to operative paragraph 10 of Commission on Human Rights resolution 1989/27, which encouraged the Governments concerned to give serious consideration to inviting the Working Group to visit their country, so as to enable it to fulfil its mandate even more effectively; the Working Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 43/159. The Group stated that it considered such visits extremely useful for achieving a more thorough assessment of the situation of disappearances in the countries concerned; a visit to El Salvador would make an important contribution to its understanding of outstanding matters which fall within its mandate. At the twenty-seventh session of the Group, the Executive Secretary of the governmental Commission on Human Rights stated in reply to that communication that the Government of El Salvador had favourably considered the Group's wish and was awaiting its suggestions with regard to dates and modalities.

111. By a letter dated 20 September 1989, the Group expressed concern about the reported assassination of members of local human rights organizations and expressed the hope that the Government would take the necessary steps to protect them. It further informed the Government of reports it had received about developments in El Salvador having an influence on the phenomenon of disappearances or on the evolution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

112. The newly reported disappearances were submitted by the non-governmental Commission on Human Rights in El Salvador (CDHES), the Commission for the Defence of Human Rights in Central America (CODEHUCA), the Christian Committee for Disappeared Persons in El Salvador (CRIPDES), the World Organization Against Torture, Amnesty International and Archibishop Oscar Romero Christian Legal Aid (SJC).

113. Most of the disappearances occurred in the departments of El Salvador and Usulatan, and concerned persons from different professions (day labourers, street vendors, workers, journalists, managers, farmers, economists). The forces which allegedly carried out the arrests were described as members of the Army (1st Infantry Brigade, Batallón Atonal), the Navy (Batallón Infantes de Marina), of the security forces (Policía Nacional, Policía de Hacienda), members of the Air Force, or simply armed men in plainclothes. In most cases, habeas corpus petitions were filed. According to the reports received, such petitions as well as inquiries addressed to the security forces, however, yielded negative responses or no results at all. The sources also reported that five cases had been clarified, the persons concerned having been released from detention.

114. In several reports of disappearances submitted to the Working Group, the above-mentioned organizations reported that, despite the fact that there was abundant testimonial evidence that human rights violations (including also extrajudicial executions and torture) occurred, the judicial system was not carrying out full investigations into the cases of people who had been arbitrarily detained and subsequently disappeared. In this connection, fear was expressed that by allowing perpetrators to remain immune from prosecution, an awar ess of impunity on the part of those responsible for the abuses was created making it more likely that similar human rights violations would continue to be committed in the future.

115. Particular concern was expressed about a draft amendment to the penal code, which, if approved by the legislature, would make punishable by a prison term of five to ten years anyone who "through visits to foreign countries, messages or by other means, promotes acts, declarations or programmes in which other States or international organizations are motivated to intervene in the internal affairs of El Salvador". Non-governmental organizations pointed out that, in practice, this could be interpreted as including appeals to the bodies, proceedings and mechanisms within the United Nations system directly concerned with human rights.

116. Some human rights organizations reported that members were constantly threatened and that some had been imprisoned when carrying out humanitarian activities on behalf of the civilian population. They complained that the offices of many grassroots, trade union and human rights organizations had been placed under surveillance by the army and that houses of members and leaders of these organizations had been broken into. Concern was also expressed by the Lutheran Office for World Community about acts of persecution of churches in El Salvador, as allegedly illustrated by the daily detention of church workers of the Roman Catholic, Episcopal, Menonite, Baptist and Lutheran Churches, and the ouster from the country of foreign personnel engaged in humanitarian activities.

117. A non-governmental organization brought to the Government's attention a photocopy of a written order issued by an officer of the Infantry Command of the National Guard in Zacatecoluca, dated 11 March 1988, placing two persons (names given) on a strict 24-hour surveillance. The order contained, inter alia, the following terms: "Strict permanent surveillance of these individuals is ordered, and at the opportune moment, move against them utilizing whatever means, to the point of making them disappear". The Working Group informed the Government of this matter by a letter dated 18 May 1989 and invited it to comment thereon. However, no reply has been received to date.

Information and views received from the Government

118. The Working Group has received written information from the Government and from the governmental Commission on Human Rights of El Salvador regarding 47 cases. Twenty-two of these replies concerned cases on which the Government had already replied. On eight cases, the Government replied that the persons had been released from prison. With regard to the remaining cases it replied that the persons concerned were not registered in the check-lists of the Commission or that they were still disappeared or that the inquiries it had conducted with different military and security services had yielded negative results.

119. The Working Group met the Executive Secretary of the governmental Commission on Human Rights of El Salvador during its twenty-seventh session. In his presentation, he mentioned that the new President had stated in his inaugural address in June 1989 his firm resolve to ensure that the situation of human rights in El Salvador would improve in the immediate future. He also assured the Group of his Government's co-operation and of its readiness to reply to all the cases transmitted to it. He further referred to the progress that his Government was making with a view to facilitating information about people who had been detained; in this respect, he mentioned a draft law presented by the Supreme Court on the creation of a Centre of Information that would function non-stop all year round to which the military and civil authorities could be obliged by law to report any detention. The Executive Secretary also corrected an error reproduced in paragraph 106 of the Group's ninth report (E/CN.4/1989/18): the number of guerrillas should read 10,000 instead of 100,000.

Statistical summary

I.	Cases reported to have occurred in 1989	34
II.	Outstanding cases	2,161
III.	Total number of cases transmitted to the Government by the Working Group	2,511

IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	493
	(b) Cases clarified by Government's responses a/	315
V.	Cases clarified by non-governmental sources b/	35

a/ Persons in prison: 169
Persons released from prison: 142
Persons officially reported dead: 4.

b/ Persons at liberty: 4
Persons in prison: 8
Persons released: 19
Person executed: 1
Persons reported dead: 3.

Ethiopia

Information reviewed and transmitted to the Government

120. The activities of the Working Group in relation to Ethiopia are recorded in its last eight reports to the Commission. 1/

121. During 1989, the Working Group received no new reports of disappearances in Ethiopia, but by a letter dated 12 May 1989 the Government was reminded of all the cases transmitted to it in the past which remain unclarified. There has been no response from the Government, however, and the Working Group regrets that once again it is unable to report to the Commission on the results of any investigations which might have been carried out.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	27
III.	Total number of cases transmitted to the Government by the Working Group	27
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	2
	(b) Cases clarified by Government's responses	0

Guatemala

Information reviewed and transmitted to the Government

122. The Working Group's activities in relation to Guatemala are recorded in its last nine reports to the Commission. 1/

123. During the period under review, the Working Group transmitted to the Government of Guatemala 51 newly reported cases, 40 of which were reported to have occurred in 1989, one in 1988 and one in 1981. Twelve cases were transmitted by a letter dated 15 December 1989 and 39 were transmitted throughout the year by cables under the urgent action procedure. The Working Group also decided to retransmit to the Government, by a letter dated 12 May 1989, one case updated with new information from the sources. As regards the case transmitted by the Working Group on 15 December 1989, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

124. The Government was also informed, by letters dated 12 May, 20 September, 15 and 21 December 1989, of 14 cases which were considered clarified by the Working Group, 5 of them on the basis of information received from the Government and 9 on the basis of information submitted by the sources.

125. By a letter dated 12 May 1989, the Working Group informed the Government that one case would be considered clarified provided that within six months of the date on which the replies were communicated to the relatives, the latter did not make any observation which required further consideration by the Working Group.

126. In accordance with its decision to remind the Government, twice a year, of reports of disappearances transmitted during the previous six months under the urgent action procedure (see para. 26), the Working Group, by a letter dated 24 February 1989, retransmitted to the Government of Guatemala 30 cases relating to the period July to December 1988 and, by a letter dated 4 August 1989, 22 cases relating to the period January to June 1989. At the request of the Permanent Mission of Guatemala to the United Nations Office at Geneva, the Working Group, by a letter dated 14 August 1989, provided the Government with a list of all cases of disappearance transmitted since 1986.

127. By a letter dated 12 May 1989, the Working Group expressed its concern over the persecution of members of the Mutual Support Group (GAM) and the Council of Indigenous Communities "Runujel Junam" (CERJI). By the same letter, the Government was reminded of 2,865 outstanding cases. By a letter dated 23 May 1989, the Working Group expressed the wish to receive from the Government of Guatemala its comments on the conclusions and suggestions included in the report of the Group on its visit to Guatemala in October 1987. By a letter dated 20 September 1989, the Working Group provided the Government with a summary of allegations received from non-governmental organizations requesting, at the same time, information from the Government concerning the appointment of an official commission to investigate disappearances, the creation of which was announced in March 1988.

Information and views received from relatives of missing persons or from non-governmental organizations

128. The reports on disappearances received by the Working Group since the last report to the Commission were submitted by such sources as Amnesty International, the Central American Association of Relatives of Disappeared Detainees (ACAFADE), the Guatemalan Commission on Human Rights (CDHG), the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM), the Central American Commission on Human Rights (CODEHUCA), the Mutual Support Group (GAM) and S.O.S. Torture. These organizations, as well as Americas Watch, the Pro-Justice and Peace Committee of Guatemala, the International Human Rights Law Group, the Committee for the Disappeared Detainees in Guatemala, the International Federation on Human Rights and the United Representation of the Guatemalan Opposition (RUOG) have submitted a number of reports on the general situation concerning disappearances in Guatemala.

129. According to these reports, there has been a resurgence in abductions, disappearances and political killings since the attempted coup of 11 May 1988 directed, in particular, against trade unionists, professors, student leaders, Indian peasants and members of human rights organizations. Many of those attempting to investigate and prevent human rights violations, as well as protecting the families of the victims, had been forced into exile, after they themselves and their relatives had been threatened, made to disappear or been subjected to extrajudicial execution. A series of threats and abuses against leaders and members of non-governmental organizations were reported such as those affecting the Mutual Support Group (GAM) and the Council of Indigenous Communities "Runujel Junam" (CERJI).

130. Allegedly, many human rights abuses have been committed by police and military personnel, both in uniform and in plainclothes in the guise of so-called "death squads". It has further been reported that military and police personnel operating in "death squads" do so with the acquiescence of or under orders from their superiors.

131. Most of the above-mentioned organizations emphasized the substantial increase regarding the nu ber of disappearances alleged to have occurred in Guatemala during 1989. These disappearances were reportedly perpetrated as part of an effort to create a climate of terror among the population and to discourage popular protest or as part of a preconceived plan for eliminating leaders and members of popular organizations. The reported increase in disappearances was linked by many organizations to an increasing militarization in the country.

132. Reports received emphasized that the majority of persons who disappeared for political reasons in 1989 were found dead, with signs of torture, several days after their arrest or abduction. According to the sources, Government forces have increasingly resorted to extrajudicial execution of opponents since such killings provoked fewer reactions from national and international human rights organizations than cases of disappearance.

133. The various specialized human rights bodies mandated under the present administration to inquire into human rights violations were said to have failed to carry out genuine investigations and to establish responsibility for the abuses reported to them. The regular police and judiciary were said to be similarly unable or unwilling to carry out in-depth inquiries or to bring their perpetrators to justice. It was further alleged that judicial officials are in actual practice prohibited from entering secret detention areas, particularly in military installations and in some national police headquarters, and that, as a result, habeas corpus proceedings have been by and large inoperable.

134. Criminal complaints before the Supreme Court against 20 military and civilian participants in kidnappings and disappearances had reportedly failed to yield effective judicial measures over the years. During the second week of April 1989, the Episcopal Conference of Guatemala (CEG) complained about the "absence of a responsible and conclusive investigation, required by justice, of the numerous crimes committed with impunity". It was also reported that the Deputy Attorney for Human Rights, before resigning from his post, had denounced Government interference in investigations.

135. According to several human rights organizations, the amnesties granted by the outgoing military Government in 1986 and subsequently by the present Government had facilitated further human rights violations. By conferring immunity on police and military personnel for past abuses, the amnesties were seen as having led such personnel to believe that they could continue acting with impunity.

136. According to investigations by the Mutual Support Group (GAM), 18 clandestine graveyards had been discovered; one of these allegedly contained the remains of 23 disappeared persons for which the Government security forces and the Civilian Defence Patrols were being considered responsible. Further secret cemeteries had reportedly been discovered in the highland villages of Chijtinamit, Pacoj and San Pedro Jocopilas. It has been alleged that demands by the GAM for an official investigation had so far been ignored.

Information and views received from the Government

137. By a note verbale addressed to the Chairman of the Commission on Human Rights, dated 28 February 1989, the Permanent Mission of Guatemala to the United Nations Office at Geneva enclosed a copy of a document entitled "Human Rights in Guatemala" expressing the special emphasis which the Government places on solving the cases of disappeared persons and investigating all the cases denounced to the National Police during 1988.

138. By a letter dated 14 March 1989, the Permanent Mission of Guatemala informed the Working Group that one person, reportedly disappeared in December 1988, had not informed his family that he was again working on a farm of the municipality of Patulul, Suchitepequez. By a note verbale dated 13 July 1989, the Permanent Mission of Guatemala informed the Working Group that two persons, whose cases had been transmitted to the Government during the same month under the urgent action procedure, had been released subsequent to their abduction by unknown men. The Government also advised that ten other cases of disappearance, two of which had previously been considered clarified by the Working Group, had been clarified.

139. By a letter dated 8 August 1989, the Advisory Commission to the President of the Republic on Questions of Human Rights (COPADEH) transmitted information and documentation relating to several measures taken by the Government, inter alia, with regard to the Central Register for Detainees, habeas corpus proceedings and programmes to promote respect for human rights. A circular which the President of the Judiciary and the Supreme Court of Justice had addressed to judges informing them of the procedures to be followed concerning applications for habeas corpus was attached: it instructed them that, for cases which are dismissed because the missing person is not under detention, action should immediately be initiated to investigate the disappearance of the person. Another circular was distributed to police forces informing them of their obligation to submit information for entry in the Central Register of Detainees. A shorter version of that circular destined for military bases was also attached. Information was also provided on programmes to promote respect for human rights in two fields: dissemination of international humanitarian law and school education.

140. By a letter dated 15 November 1989, the Government of Guatemala stated that the offer made by the President to appoint an official commission to investigate cases of disappearance had been implemented by a Government Decision of 19 April 1989, which led to the establishment of the Advisory Commission to the President of the Republic on Questions of Human Rights (COPADEH). This Commission was examining and assembling the findings of police and judicial investigations. The Judiciary and the Security Forces, combined in the System for the Protection of the Citizenry (SIPROCI), had joined their efforts to increase and improve their activities by initiating various measures such as the establishment of local courts (Juzgados Comarcales) and pilot courts (Juzgados Pilotos), the Supreme Court's Central Register of Detainees and, at the level of the National Police, the Office of Professional Responsibility. SIPROCI is under the direct control of the Office of the President of the Republic.

141. In the same letter, the Government pointed out that, following frustration of the attempted coups d'état of May 1988 and May 1989, traditionalist groups opposing the present democratic government undertook to create a climate of disorder through terrorist activities, including disappearances and abductions. The Government of Guatemala rejected insinuations that members of the security forces and the police were linked with human rights violations and that these forces included "death squads". Finally, it was stated that a number of amnesties decided by the legislature had as purpose the pardoning of political crimes and associated ordinary offences. They had not been intended for any particular sector.

142. By a note verbale dated 30 November 1989, the Government of Guatemala clarified a case of disappearance which the Group had already considered clarified on the basis of information received by the relatives.

Statistical summary

I.	Cases reported to have occurred in 1989	40
II.	Outstanding cases	2,990
III.	Total number of cases transmitted to the Government by the Working Group	3,000
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	118
	(b) Cases clarified by Government's responses a/	41
V.	Cases clarified by non-governmental sources b/	69

a/ Persons dead: 3
Persons in prison: 4
Persons released: 19
Person not detained in the country: 1
Persons at liberty: 13

b/ Persons reported dead: 26
Persons whose bodies were found and identified: 13
Person in prison: 1
Persons released: 22
Persons at liberty: 8

Guinea

Information reviewed and transmitted to the Government

143. The Working Group's activities in relation to Guinea are recorded in its last seven reports to the Commission. 1/

144. No cases of disappearance were reported to have occurred in 1989. By letters dated 12 May and 20 September 1989, the Working Group reminded the Government of the 21 outstanding cases transmitted in the past. Despite repeated efforts by the Working Group to obtain a reaction from the Government of Guinea to the reported disappearances, which were first transmitted to it on 10 September and 18 December 1986, no response whatsoever has been received to date.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	21
III.	Total number of cases transmitted to the Government by the Working Group	28
IV.	Government responses	0
V.	Cases clarified by non-governmental sources a/	7

a/ Persons dead: 7

Haiti

Information reviewed and transmitted to the Government

145. The Working Group's activities in relation to Haiti are recorded in its last seven reports to the Commission. 1/

146. No cases of disappearance were reported to have occurred in 1989. However, by a letter dated 24 February 1989, the Working Group retransmitted to the Government one case of disappearance which had occurred in January 1988 for which it had applied the urgent action procedure. During the period under review, the Group has also reminded the Government, by a letter dated 12 May 1989, of all outstanding cases transmitted in the past. In spite of such reminders, however, the Government has provided no new information on any of those cases and the Group, therefore, is still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	16
III.	Total number of cases transmitted to the Government by the Working Group	25
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	13
	(b) Cases clarified by Government's responses a/	9

a/ Persons at liberty: 4
Persons in prison: 5.

Honduras

Information reviewed and transmitted to the Government

147. The Working Group's activities in relation to Honduras are recorded in its last eight reports to the Commission. 1/

148. During the period under review, the Working Group transmitted to the Government, under the urgent action procedure, five cases that occurred in 1989. In accordance with its decision to remind the Governments twice a year of reports on disappearances transmitted during the previous six months under the urgent action procedure (see para. 26), the Working Group, by letters dated 24 February and 4 August 1989, retransmitted the summaries of 10 cases to the Government. By letters dated 12 May, 20 September and 15 December 1989, the Working Group retransmitted to the Government two cases with additional information from the source. It further informed the Government of reports it had received about developments in Honduras having an influence on the phenomenon of disappearances or on the evolution of the cases not yet clarified. At the request of the Government, all outstanding cases were retransmitted to it on 22 August 1989.

149. The Working Group also informed the Government that three cases had been considered clarified on the basis of information provided by the Government and/or the source and advised it that one case would be considered clarified if no observations requiring further consideration by the Group were received from the reporting sources during the statutory six-month period (see E/CN.4/1988/19, para. 27). The Group also reminded the Government of all outstanding cases and requested it to clearly indicate the place where seven persons, whose detention the Government had confirmed, were held.

150. In addition, the Working Group expressed concern about reports alleging repeated acts of harassment or persecution against members of the Committee for the Defence of Human Rights in Honduras and witnesses before the Inter-American Court on Human Rights. In this respect the Working Group drew the Government's attention to resolution 43/159 of the General Assembly (in particular operative paras. 5, 6 and 8) and resolution 1989/27 of the Commission on Human Rights (in particular operative paras. 8, 9 and 10).

151. In revising its files, the Working Group found that one case had erroneously been listed twice in its records. It was therefore eliminated from the statistical summary of the present report.

Information and views received from relatives of missing persons or from non-governmental organizations

152. The five newly reported cases transmitted to the Government were submitted by Amnesty International, the Commission for the Defence of Human Rights in Central America (CODEHUCA), the Committee for the Defence of Human Rights in Honduras (CODEH) and the World Association against Torture. Three of the missing persons were reportedly arrested by members of the Army, one by the security services and another person by Nicaraguan "Contra" forces operating from Honduras. The Group was subsequently informed by the World Association against Torture and the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH) that one person had been released and that another had been in a refugee camp prior to being handed over to his relatives through the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Refugees (UNHCR). Both cases were considered clarified.

153. During its twenty-seventh session, the Working Group met with representatives of CODEH who asserted that despite the ouster of General Alvarez in March 1984, disappearances were still taking place in Honduras and referred to several cases that happened in 1988 and 1989.

154. The above-mentioned organizations expressed concern over attacks and acts of harassment against students, leaders of peasants' organizations, trade-unionists and human rights activists, allegedly carried out by paramilitary groups whose members had constantly refused to identify themselves. According to the information received, these groups acted with the consent of official authorities or were under the control of the Armed Forces and in none of the denounced cases, including two assassinations, had there been any arrests or Court proceedings.

155. One of the organizations (as well as the Honduran Government) provided copies of two new rulings that the Inter-American Court on Human Rights had given in 1989 concerning three cases of disappearance which are included in the Working Group's files. On one case, in a ruling of 20 January 1989, the Court decided that the Government of Honduras was responsible for the disappearance and that it had violated the victim's right to life, to personal liberty and to humane treatment and compelled it to pay a just compensation to the victim's family. On the other two cases (ruling of 15 March 1989), the Court considered that there was not enough evidence of the responsibility of the Government of Honduras for the disappearance of the two persons since, according to information provided by the Guatemalan Government in 1987, they appeared to have crossed the border to that country.

156. In connection with the ruling of 20 January, the Institute of Legal and Social Studies of Uruguay (IELSUR) forwarded to the Working Group a legal opinion of 12 jurists who argue that the "just compensation" and "reparation" which the Court ordered pursuant to article 63.1 of the Inter-American Convention of Human Rights is not limited to a mere pecuniary settlement to the victim's family. Rather, to protect the interests of the Honduran society and the international community affected by this practice which they consider a crime against humanity, the Court should also urge the Government to take the necessary steps to eradicate and prevent the practice as well as investigate all cases of enforced disappearances and punish those responsible.

Information and views received from the Government

157. By letters dated 14 March, 2 June, 25 August, 30 October and 7 December 1989, the Permanent Mission of Honduras to the United Nations Office at Geneva provided 14 replies on 12 cases transmitted previously. One of the replies concerned a Nicaraguan citizen who was a refugee in Jacaleapa, Department El Paraiso, and was later handed over to his relatives by the ICRC and the UNHCR. Another person had been released. On seven cases, the Government replied that the persons concerned had been acquitted by a Military Court. On another case, it replied that witnesses would be essential to the investigation of the case; since witnesses had been mentioned in the case summary transmitted by the Working Group, their names should be provided; the Government also advised that the victim's mother never showed up to identify unknown corpses with similar characteristics to her son's; finally, it also informed the Working Group that this case was before the Inter-American Commission of Human Rights which requested information on it from the Government of Honduras. On a further case, the Government replied that since the victim's mother was certain that a member of the military was responsible

for her son's detention, she should file a complaint against that person. On another case, it replied that the person concerned was a national of El Salvador who was detained in Intubuca Department by the 7th Infantry Battalion which handed him over to the immigration services of Honduras which later deported him to El Salvador.

158. On 2 June 1989, the Permanent Representative of Honduras to the United Nations Office at Geneva forwarded to the Under-Secretary-General a letter from the Interinstitutional Commission on Human Rights providing information regarding a report sent to the Centre for Human Rights by an Argentine non-governmental organization on the detention of various Honduran members of human rights organizations and death threats made against them. According to the Commission, those persons' lives were not threatened and one of them had not accepted the protection offered.

159. At its twenty-eighth session, the Working Group met representatives of the Government of Honduras who presented a report on the "Judicial Power in Honduras - progress and evolution" and on the situation of the rehabilitation centres in Honduras. In this documentation, emphasis is laid on the importance of an independent and efficient judicial system. In order to attain these objectives, the Honduran Government was fostering the training of judicial officers, strengthening the judiciary and increasing the number of attorneys. The representatives also provided information on the status of investigations concerning reported cases of disappearance and conveyed to the Group their Government's willingness to continue investigating the alleged disappearances.

Statistical summary

I.	Cases reported to have occurred in 1989	5
II.	Outstanding cases	132
III.	Total number of cases transmitted to the Government by the Working Group	188
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	122
	(b) Cases clarified by Government's responses a/	22
V.	Cases clarified by non-governmental sources b/	34

a/ Persons at liberty: 15
Persons in prison: 4
Persons dead: 2
Person deported: 1

b/ Persons at liberty: 12
Persons detained and later released: 11
Refugee forcibly returned to his country of origin: 1
Persons found dead: 8
Person escaped from a camp: 1
Person deported: 1

India

Information reviewed and transmitted to the Government

160. The Working Group's activities in relation to India are recorded in its last two reports to the Commission. 1/

161. During the period under review, the Working Group transmitted to the Government of India 59 newly reported cases of disappearance, of which 26 were reported to have occurred in 1989. Four cases were transmitted by a letter dated 12 May, four by a letter dated 20 September, 39 by a letter dated 15 December 1989, and, under the urgent action procedure, 12 cases by cables dated 17 March, 12 May, 22 and 28 August, 4 and 26 October 1989. As regards the cases transmitted by the Group on 15 December 1989, it must be understood that the Government could not respond prior to the adoption of the present report.

162. By a communication dated 12 May 1989, the Government was also reminded of the other cases transmitted in the past which remain unclarified.

163. With its letter dated 4 August 1989, the Working Group, in accordance with its decision to remind Governments twice a year of cases transmitted during the preceding six months under the urgent action procedure (see para. 26), forwarded summaries of two cases which had been transmitted in March and May.

164. On 20 September 1989, the Government was informed that, on the basis of information provided in its reply dated 21 November 1988, 13 cases were now considered clarified. In the same letter, the Working Group conveyed to the Government reports it had received about developments in India having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

165. On 12 May, 20 September and 15 December 1989, the Working Group also forwarded a total of 19 cases of disappearance which allegedly occurred in Sri Lanka and for which the Indian peace-keeping force was allegedly responsible. By deciding to bring them to the attention of the Indian Government, the Working Group, motivated by the purely humanitarian objective of its mandate, hoped that investigations would be facilitated in order to clarify the fate and whereabouts of the persons reported missing. In accordance with the Group's methods of work, however, those cases are not included in the statistical summary for India.

Information and views received from relatives of missing persons or from non-governmental organizations

166. Information on the newly-reported cases of disappearance in India was submitted by representatives of the respective families, Sikh human rights groups, the Andhra Pradesh Civil Liberties Committee and/or Amnesty International. Those missing were reported to have disappeared in the Punjab, Andhra Pradesh and Uttar Pradesh. The police were held responsible for all of the arrests, and in many cases fears were expressed that the missing persons might have been killed in fake encounters with the police. According to the source, the disappearances in Andhra Pradesh concern persons known as "Naxalites", i.e. activists (real or alleged) of the various groups that describe themselves as the Communist Party of India (Marxist-Leninist).

167. In its communication dated 28 June 1989, Amnesty International informed the Working Group that, consistent with the earlier reply of the Government, the bodies of 13 missing persons had been identified and it had learned that their relatives had received an ex-gratia payment from the Government of India. The Government had also made an ex-gratia payment in respect of other missing persons but their bodies had not been found and the families still did not know their fate or whereabouts.

168. During its twenty-eighth session, the Working Group met a representative of the Sikh Human Rights Group (United Kingdom) who, in his statement, alleged that under the National Security Act of 1980 a person could be kept in jail for up to two years in Punjab (only one year in other parts of India) without charge or trial, and that although the right to habeas corpus from the High Court of Punjab technically existed, the High Court was located in Chandigarh which is located outside the Punjab. He further alleged that when a writ of habeas corpus was filed news was leaked to the detention centre, frequently resulting in the detainee being killed or moved to an unspecified location, and consequently local lawyers advised their clients against the habeas corpus procedure unless certain safeguards had been taken; and in this respect bribes to certain police officers was the most commonly used method.

169. In Amnesty International's recent document entitled "India - Some Recent Reports of Disappearances", communicated to the Working Group by letter dated 15 September 1989, it was noted that India's highest courts had held officials responsible for "disappearances" in several cases and had granted redress to the victims' relatives. According to Amnesty International, such instances were rare, however, and that organization was not aware of any officials having been prosecuted or convicted as a result.

170. The report stressed that an important legal remedy to prevent "disappearances" was the right to habeas corpus. This right existed in India and detainees had in a number of cases been brought to court, and released as a result of such proceedings initiated by their relatives. There were other cases, however, where such a remedy had not been effective because the courts had dismissed them on technical grounds or because the police apparently obstructed their implementation. According to one report, the summons for the relatives' court appearance might not have been delivered because the policeman charged with taking the summons to the village had himself allegedly been involved in the missing person's abduction. Another factor inhibiting the effectiveness of habeas corpus to resolve "disappearance" cases was that such legal action had to be taken to the high courts and was often unavailable to relatives of poor and illiterate victims.

171. Even though legal safeguards existed in India's ordinary criminal law and procedural code, a number of cases were referred to by Amnesty International in which they were simply not applied in practice. The report cited the cases of two detainees, one of whom had been kept incommunicado until brought before a magistrate six weeks after his arrest, and the other detained for 47 days without the detention having been officially recorded. Both men had been subsequently released reportedly following publicity about their disappearance.

172. At its twenty-ninth session, the Working Group received the Chairman of the Sikh Human Rights Group of Canada who expressed appreciation for the Group's co-operation. He wished to report that following the Government statement to the Commission on Human Rights that the Supreme Court would take up a petition even if submitted on a postcard, several relatives of victims

had been requested to try that method and it was with regret that he had to advise that none of those appeals had been accepted. The Chairman agreed that the right to habeas corpus existed but it was well known that as soon as this remedy was used in Punjab the accused would be moved to an unknown place never to be seen again. He further referred to instances where the accused, immediately after having been found innocent and acquitted by the courts, were re-arrested and likewise taken away to an unknown destination and never seen again. In Punjab, the police officers made the law, apprehended the suspect, dispensed the justice and executed the suspect. In conclusion, he urged the Government, through the Working Group, to investigate all the enforced disappearances to the satisfaction of their friends and relatives.

Information and views received from the Government

173. At its twenty-ninth session the Working Group met a representative of the Permanent Mission of India to the United Nations Office at Geneva who stressed that many difficulties were encountered in investigating some of the cases of disappearance because they had occurred in remote areas, and all information required very thorough checking to ensure that it was authentic before submission to an international group. More recently too those responsible for conducting investigations had been occupied almost full-time in maintaining law and order during the elections. None the less, he wished to reiterate very strongly his Government's intention to furnish replies as soon as possible on the reported cases of disappearance.

174. In a brief outline of the Indian legal system handed to the Working Group by the representative, it was emphasized that the Government had issued directives from time to time on the need for police officers to desist from unauthorized methods during investigations, and police personnel found guilty of using such methods rendered themselves liable to exemplary punishment. If a person died in police custody, procedure required that an independent inquiry into the cause of death be made by a magistrate. In addition to the constitutional, judicial and legal protection to persons in custody, additional safeguards existed in the form of a completely free and unfettered public media.

Statistical summary

I.	Cases reported to have occurred in 1989	26
II.	Outstanding cases	79
III.	Total number of cases transmitted to the Government by the Working Group	92
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	13
	(b) Cases clarified by the Government's responses a/	13

a/ Persons whose bodies were identified: 13.

Indonesia

Information reviewed and transmitted to the Government

175. The Working Group's activities in relation to Indonesia are recorded in its last nine reports to the Commission. 1/

176. By letters dated 12 May and 15 December 1989, the Group transmitted to the Government of Indonesia three newly reported cases of disappearance, one of which was reported to have occurred in Dili in May 1989, and the other two in 1984. As regards the case transmitted by the Group on 15 December 1989, it must be understood that the Government could not respond prior to the adoption of the present report.

177. On 12 May 1989, the Group also informed the Government that a further six cases were now considered clarified on the basis of information provided in its reply dated 9 September 1988.

178. In a letter dated 20 September 1989, the Working Group expressed its appreciation to the Government for its communication of 10 July 1989 giving replies on another three cases of reported disappearance, and informed it that one of those cases would be considered clarified provided that within six months the respective family did not make any observations which required further consideration by the Group. Concerning the other two cases, the Government was requested to provide more precise information in respect of the places where one person reportedly now resides and the other person died in cross-fire.

179. On 15 December 1989, the Working Group further informed the Government that the aforementioned two cases were now considered clarified on the basis of new information from the respective families that both missing persons had been killed shortly after their arrest.

180. By its communication dated 12 May 1989, the Group also reminded the Government of the cases which remained outstanding.

Information and views received from relatives of missing persons or from non-governmental organizations

181. In a letter dated 6 January 1989, The Indonesia Human Rights Campaign (TAPOL) reported the disappearance of two brothers in 1984. The father of the two men had been notified by the police that one of his sons had been arrested "for being involved in political crimes", and when the other son went to the police station he too was detained. In October 1984 both were reportedly moved from Laksusda Detention Centre to an unknown destination.

182. With its communication dated 21 September 1989, Amnesty International drew the attention of the Working Group to the disappearance of a shopkeeper who had been taken from his home in Dili on 25 May 1989 by military officers, allegedly on suspicion of supplying provisions to members of Fretilin, and was last seen in the custody of members of the security forces.

183. During the period under review, several organizations, notably the Canada Asia Working Group on Human Rights in Asia, The Indonesia Human Rights Campaign (TAPOL) and Amnesty International, reported that human rights violations by Indonesian armed forces in East Timor continued and that members

of the Fretilin and any East Timorese suspected of sympathizing with the movement were allegedly brutally treated by the military. Freedom of movement for the civilian population was very restricted and fear and tension were still widely apparent. It was stressed that visits of foreign delegations were carefully controlled and international human rights organizations had not yet been able to visit East Timor.

Information and views received from the Government

184. When forwarding replies on another three cases of reported disappearance, the Permanent Mission, in a letter dated 10 July 1989, stressed that the Indonesian Government did its utmost to trace persons reported missing. However, since many of the disappearances had occurred several years ago it was unable to transmit all of the information requested due to the fact that either the addresses of the individuals in question had changed or the individuals themselves had taken part in security disturbances and might have died in accidental cross-fire with the agents of law enforcement.

185. By a letter dated 24 October 1989, the Permanent Representative of Indonesia advised that two persons (brothers) who had been reported as disappeared had been held for questioning by the police but, as no conclusive evidence could be found of their involvement in the distribution of pamphlets discrediting the Government, they had immediately been released on condition that they reported regularly to the local authorities. They had last reported on 18 October 1984 and the Government, having searched for them without success following their failure to respond to several summons, had come to the conclusion that "out of their own volition, they had moved without giving any indication of their new residence". (The Working Group will await the reaction of the source before taking a decision on those two cases.)

Statistical summary

I.	Cases reported to have occurred in 1989	1
II.	Outstanding cases	40
III.	Total number of cases transmitted to the Government by the Working Group	73
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	27
	(b) Cases clarified by Government's responses a/	22
V.	Cases clarified by non-governmental sources b/	11 c/

a/ Persons detained in prison: 6
Persons currently residing in named villages: 16

b/ Persons found to be alive: 8
Person in prison: 1
Persons killed: 2

c/ Three cases clarified by both the Government and the source are included in IV (b) only.

Iran (Islamic Republic of)

Information reviewed and transmitted to the Government

186. The Working Group's activities in relation to the Islamic Republic of Iran are recorded in its last eight reports to the Commission. 1/

187. By letters dated 12 May 1989 and 20 September 1989, the Working Group transmitted to the Government of Iran 191 newly reported cases of disappearance of which 121 were said to have occurred in 1989. By a cable dated 16 August 1989, the Group also transmitted 18 newly reported cases processed under the urgent action procedure.

188. By communication dated 12 May 1989, the Group reminded the Government of 184 cases of disappearance which remained outstanding. The Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva, by its note verbale of 7 June 1989, requested from the Working Group summaries of those outstanding cases which the Group communicated by note verbale dated 13 June 1989. By its communication dated 20 September 1989, the Working Group informed the Iranian Government of reports it had received about developments in Iran having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

189. Information on disappearances received in 1989 was submitted by the People's Mojahedin Organization of Iran and a relative. It concerned disappearances which occurred between June 1981 and April 1989, although the majority took place in 1988 and 1989 (171 of the 209 newly submitted cases were reported to have occurred during this period). The sources reiterated the difficulties encountered by the relatives when searching for the whereabouts of family members. In particular they referred to the complete lack of co-operation on the part of Government authorities, prison and civil guards, and members of the police. It was reported that those forces had detained a great number of people in the street under allegedly false charges of being drug traffickers, following which they disappeared. It was further reported that the large number of disappearances in recent months had occurred in the context of instability which followed Ayatollah Khomeini's death. This was allegedly a change from the past, when justification for arrests had predominantly been on ideological grounds. According to the sources some of the newly reported cases also related to prisoners whose detention had first been acknowledged but, after varying periods of time, was later denied.

Information and views received from the Government

190. By a letter dated 7 November 1989, the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva forwarded a letter from the Director-General for International Political Affairs, Ministry of Foreign Affairs, which referred to the 190 cases transmitted by the Working Group on 20 September. The Government stated, inter alia, that the cases had been transmitted to the appropriate authorities which had undertaken investigations with the following results: "(i) Ninety per cent of the names appearing in the list are fictitious; (ii) Names of 12 people who had been

killed in terroristic operations have previously appeared in a list produced by the People's Mujahedin Organization (the terrorist organization based in Iraq); (iii) Inadequate particulars of a number of the names in the list (e.g. surname of father or mother, place and date of birth) have made conclusive tracing impossible." Should the missing information be provided, the necessary investigations would be conducted and the results subsequently conveyed to the Working Group.

Statistical summary

I.	Cases reported to have occurred in 1989	121
II.	Outstanding cases	393
III.	Total number of cases transmitted to the Government by the Working Group	393
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	0

Iraq

Information reviewed and transmitted to the Government

191. The activities of the Working Group in relation to Iraq are recorded in its last five reports to the Commission. 1/

192. During the period under review, the Working Group transmitted 129 newly reported cases of disappearance to the Government. Sixty-five cases were transmitted by a letter dated 20 September 1989 and concerned cases of persons who disappeared between 1979 and 1986; 64 cases transmitted by a letter dated 15 December 1989, concerned persons who disappeared between 1976 and 1988. As regards the cases transmitted by the Group on 15 December 1989, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report. On 15 December 1989, the Group also advised the Government of an error in the statistical summary concerning Iraq in the Group's last report to the Commission (E/CN.4/1989/18). The total number of transmitted cases should have read 2,916, the number of outstanding cases 2,876, and the number of cases clarified by the sources 17.

193. By a letter dated 12 May 1989, the Working Group informed the Government that it had decided to consider clarified three cases under the six-month rule (see E/CN.4/1988/19, para. 27) and by letter of 15 December advised it that the six months had elapsed with regard to a total of 10 cases. It also reminded the Government of all outstanding cases transmitted in the past. By its communication dated 20 September 1989, the Working Group informed the Iraqi Government of reports it had received about developments in Iraq having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

194. By its communication dated 1 June 1989, the Working Group also drew the Government's attention to operative paragraph 10 of the Commission on Human Rights resolution 1989/27, which encouraged the Governments concerned to give serious consideration to inviting the Working Group to visit their country, so as to enable it to fulfil its mandate even more effectively; the Working Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 43/159. The Group stated that it considered such visits extremely useful for achieving a more thorough assessment of the situation of disappearances in the countries concerned; a visit to Iraq would make an important contribution to the Group's understanding of outstanding matters which fall within its mandate. So far, the Government has not responded to this communication.

Information and views received from relatives of missing persons or from non-governmental organizations

195. During its sessions, the Group met representatives of non-governmental organizations which had submitted cases of disappearance, such as the International Committee for the Release of Detained and "Disappeared" Women in Iraq, and the Organization of Human Rights in Iraq. They expressed, in particular, concern about the high number of missing women and children and asserted that they had been arrested and made to disappear in the framework of mass reprisals against parts of the population suspected of supporting political opponents, Kurdish groups accused of collaboration with the Iranian enemy or simply deserters from the army. They also alleged that the amnesty granted to all Kurds in September 1988 as well as those granted to political opponents in November 1988 and February and April 1989, had led to the return of a number of persons from the Islamic Republic of Iran and Turkey and that some of them had later been either detained or executed.

196. The cases presented to the Working Group concerned persons who disappeared between 1979 and 1986. The highest numbers of cases reportedly occurred in 1980, 1981 and 1982 and concerned persons from different social strata (craftsmen, merchants, members of the armed forces, doctors, students, civil servants) who had allegedly been arrested in different places (e.g. Waset, Sallah Al-Din, Hella Al-Messaib, Al-Hilla, Baghdad, Al-Najaf, Al-Koot, Al-Emara, Kirkook, Al-Gharbi, Al-Bassra, Karballa, Dhi Qar, Al-Sheala) by state security services, on suspicion of belonging to groups in opposition to the Government. Fifty-four of the reported cases concerned Turkumen from Kirkook, the majority of them students born between 1966 and 1968, who were arrested at their respective homes. A further eight cases concerned members of a Kurdish family who disappeared in 1988.

Information and views received from the Government

197. By notes verbales dated 29 September and 6 November 1989, the Permanent Mission of Iraq to the United Nations Office at Geneva provided 50 replies on cases concerning persons who had been released from prison and others who were sentenced to imprisonment. Ten of those replies concerned cases on which the Government had replied previously and a further eight cases that had been considered clarified by the Working Group. The Iraqi Government was informed of those clarifications by letter dated 9 December 1988. In 32 cases mentioned in the above notes the Working Group decided to apply the six-month rule (see E/CN.4/1988/19, para. 27).

198. At its twenty-ninth session the Working Group for the first time met a representative of the Government of Iraq to the United Nations Office at Geneva who conveyed to the Group the willingness of his Government to co-operate with it in the resolution of cases of disappearance.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	2,992
III.	Total number of cases transmitted to the Government by the Working Group	3,045
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	122
	(b) Cases clarified by Government's responses a/	36
V.	Cases clarified by non-governmental sources b/	17

a/ Person in prison: 1
Persons living abroad: 3
Persons executed: 10
Persons at liberty: 14
Persons killed in the war: 4
Person released from detention: 1
Persons not detained in the country: 3

b/ Persons executed: 4
Persons at liberty: 8
Persons released from detention: 4
Person who died during detention: 1

Lebanon

Information reviewed and transmitted to the Government

199. The Working Group's activities in relation to Lebanon are recorded in its last seven reports to the Commission. 1/

200. Two newly reported cases were transmitted to the Government by letter dated 15 December 1989. It must be understood, however, that the Government of Lebanon could not respond to this new information, prior to the adoption of the present report.

201. By letter dated 12 May 1989, the Working Group reminded the Government of the cases transmitted in the past. In response to its request of 24 May 1989, the Government was provided with the summaries of 240 outstanding cases; however, at the time of the preparation of its present report the Working Group has not received any information from the Government on investigations which might have been carried out by the authorities.

Information and views received from relatives of missing persons or from non-governmental organizations

202. On 1 November 1989, the Working Group received information on the disappearance of two citizens of the Federal Republic of Germany, volunteers of a German humanitarian organization operating in Saïda. The report was submitted by a relative of one of the missing persons and it is alleged that they were abducted, together with a German nurse, by unidentified armed persons in civilian clothes driving private vehicles of different makes, who took them away to an unknown destination. While the nurse was later found on the road, no news of the whereabouts of the two other detainees has been obtained in spite of various petitions and actions taken by local authorities and international bodies.

Statistical summary

I.	Cases reported to have occurred in 1989	2
II.	Outstanding cases	242
III.	Total number of cases transmitted to the Government by the Working Group	247
IV.	Government responses	0
V.	Cases clarified by non-governmental sources a/	5

a/ Persons released: 5

Mexico

Information reviewed and transmitted to the Government

203. The Working Group's activities in relation to Mexico are recorded in its second and fourth to ninth reports to the Commission. 1/

204. During the period under review the Working Group transmitted to the Government eight newly reported cases. One case was transmitted by a letter dated 12 May 1989, five by a letter of 15 December 1989 and two were processed under the urgent action procedure. Both urgent action cases were retransmitted by letter dated 4 August 1989 in accordance with the Group's decision to remind Governments, twice a year, of cases transmitted during the preceding six months under the urgent action procedure (see para. 26). One of these cases was retransmitted once more by letter dated 4 October 1989 with additional information provided by the sources, and the other will be considered clarified on the basis of a reply by the Government, provided the source, within six months, does not raise objections which require it to be considered by the Working Group. Concerning the five cases transmitted on 15 December 1989, it must be understood that the Government could not respond prior to the adoption of the present report.

205. By a letter dated 12 May 1989, the Government was reminded of the outstanding cases and provided with the corresponding summaries, as requested by representatives of the Government at the twenty-seventh session of the Working Group.

206. By a letter dated 4 October 1989, the Group informed the Government that 36 cases on which the Government had provided a reply and which had been subjected to the six-month rule were considered clarified since, up to that time, the sources had not provided substantiated observations. By a letter dated 15 December 1989, however, the Working Group transmitted anew one of those cases since the source provided well-documented information according to which the missing person was not killed in a confrontation with the public forces, as reported by the Government, but was arrested at her home in the presence of her parents and taken to a military camp.

Information and views received from relatives of missing persons or from non-governmental organizations

207. Two of the newly reported cases were submitted by Amnesty International, the International Federation of Human Rights and the Mexican Academy for Human Rights. One concerned a person, leader of the "Partido Revolucionario de los Trabajadores" (PRT), who disappeared in Cuauta, State of Morelos, in December 1988, after leaving his home to attend a political meeting. Despite the appointment by the State Government of a special prosecutor and a commission composed of representatives of the Federal Government, the Government of the State of Morelos, the political parties concerned and relatives, the investigations have not yielded results. The other case concerned a person who disappeared in February 1989 in the State of Oaxaca, after having been arrested at his home by members of the Army; he was reportedly seen at the Rio Grande Military Barracks. The relatives allegedly received a request for money to obtain his release and were threatened because of the action they had taken before civil and military authorities. In connection with this case, the Government reported that the corpse had been found.

208. The third new case transmitted this year was reported by a relative and concerned a person who allegedly disappeared in 1977 after having been arrested by members of the security forces in the city of Mexico D.F. The last five cases were submitted by relatives and by the Mexican National Committee for the Defence of Prisoners, Persecuted and Missing Persons and Political Exiles (CDPPDEP) and concerned four persons arrested by the Judicial Police between 1974 and 1988 and one by the Army in 1974.

209. The Working Group received information from human rights organizations of an incident which took place on 23 November 1988. According to the reports, eight mothers belonging to the movement entitled Political Disappearances in Chihuahua and Ciudad Juárez, were assaulted by policemen and three of them seriously injured, in the course of a demonstration outside the Government Palace of Chihuahua. The Group communicated this information to the Government by a letter of 4 October 1989.

Information and views received from the Government

210. At its twenty-seventh session, the Working Group met with representatives of the Government of Mexico, who stated that the new Mexican administration had energetically faced human rights challenges and adopted a new approach, which permitted a systematic follow-up of cases when complaints of human rights violations, including disappearances, were received. The representatives of Mexico handed a written submission from their Government indicating that various measures had been adopted as of 1 December 1988 to clarify complaints of human rights violations and to promote the protection of human rights. These included the establishment of the General Directorate for Human Rights, under the Ministry of the Interior, with the following basic functions: (a) to propose programmes, actions, mechanisms and measures to ensure compliance with the human rights agreements ratified by Mexico, to plan a human rights policy and to protect those rights; (b) to establish machinery for liaison and co-ordination with public and private bodies to further the realization of and respect for human rights and to deal with complaints in that field submitted by individuals or institutions; (c) to propose training programmes for citizens in the field of human rights and to provide advisory and support services to individuals and institutions in respect of the international human rights instruments; and (d) to co-ordinate the activities of the Mexican Commission for Assistance to Refugees.

211. The Group was also informed that the Directorate dealt with the problems of disappearances and was currently collating the information in its possession. In order to clarify cases of disappearances once and for all, the Government of Mexico was in touch with the relatives of persons who were presumed to have disappeared and was investigating all of the cases which were submitted to it. Since there was no overall personal identification system in Mexico, this task presented some difficulties.

212. According to the Working Group's statistics, the vast majority of disappearances had taken place between 1972 and 1980. In order to help clarify still unsolved cases, the Working Group should clearly indicate to the Government those cases which it considered clarified either because the complainants had not rejected the conclusions reached by the Government investigation, or because they had not substantiated their dissatisfaction with the response.

213. The representative of the Government further stated that although the Group had not set a cut-off date prior to which it would not conduct inquiries into the cases submitted to it, investigation of cases which had occurred in the distant past would prove problematic. Consequently, the Government wished to be provided with fresh information in respect of those cases, so as to allow it to pursue investigations. The cases included 27 in respect of which the Government had not received any objections based on further information, and which should consequently be considered as clarified, together with 59 other cases which, for the same reasons, the Group had decided to clarify if the complainants did not provide grounds for their objections within a six-month period. These observations were reiterated by a letter dated 24 July 1989.

214. In this connection, the Working Group communicated to the Government, with regard to the 27 cases, that they could not be considered clarified since, according to the Government's reply, the inquiries had produced no results, the persons' whereabouts were unknown, or it was presumed that they died, had been hidden or abducted by unidentified individuals or persons whose identity was not given in the reply. With regard to the 59 cases and 4 others for which replies indicated that the persons had died in armed confrontations, the Working Group decided to consider clarified 35 cases on which the Government had provided information with regard to the date and place of their death and which the source had not contested with the necessary specific reasoning in each individual case as required under the Group's methods of work, despite repeated reminders since December 1988.

215. In its letter dated 15 November 1989 the Government stated that, with respect to the cases on which no specific reply had been provided, difficulties had arisen in addition to those previously brought to the Group's attention. These included the volume and complexity of frontier movements, arising from Mexico's geographical situation, which made it hard to investigate the possible cases of Mexican citizens who surreptitiously left the country and concealed their identity. The investigation of certain cases was also being held up as a result of the loss of some archives from the Public Record Offices in various towns because documents had deteriorated or natural disasters had occurred. The Government also mentioned that, throughout the year, various working meetings had been held between the National Committee for the Defence of Prisoners, Persecuted and Disappeared Persons and Political Exiles (CDPPDP) and officials of the General Directorate for Human Rights. The relatives had provided the latter with documentation which was being carefully studied in accordance with the Government's firm commitment to explore every possibility to shed light once and for all on the cases submitted.

216. The Government, in a letter dated 15 November 1989, referred to the incident of Chihuahua reported by the Working Group in its letter of 4 October 1989 (see para. 209). The Government replied that on the date in question the women members of the above-mentioned Committee had blocked the entrance to the Government Palace, and that the Government Attorney therefore had tried to persuade them to withdraw, repeating that their right to peaceful demonstration would be respected and that the State Government would take the necessary steps to arrange the interview with the President of the Republic for which they were asking. Since the women persisted in their attitude, the authorities ordered the removal of those who were blocking the entrances to the building. This was done by the security personnel, mostly women, who were completely unarmed. The Government also stated that the women members of the Committee protested energetically, but that they were not hurt during the incident, as could be seen from the reports of local hospitals at which none of the women in question had asked for medical care.

Statistical summary

I.	Cases reported to have occurred in 1989	1
II.	Outstanding cases	217
III.	Total number of cases transmitted to the Government by the Working Group	252
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	210
	(b) Cases clarified by Government's responses a/	37

a/ Persons reported dead: 36
Person at liberty: 1.

Morocco

Information reviewed and transmitted to the Government

217. The Working Group's activities in relation to Morocco are recorded in its last nine reports to the Commission. 1/

218. On 15 December 1989, the Working Group transmitted to the Government of Morocco two newly reported cases of disappearance, one of which occurred in 1976, the other in 1987. It must be understood that the Government could not respond to this communication prior to the adoption of the present report.

219. By a letter dated 12 May 1989, the Government was reminded of the 16 outstanding cases of disappearance transmitted in the past. On 18 December 1989 the Working Group advised the Government that it had received some 800 cases of enforced or involuntary disappearance reported to have occurred in Morocco between 1975 and 1987, but that as many of the elements required for processing those cases under the criteria established by the Working Group were found to be lacking the sources had been requested to provide more precise information. In the meantime, a copy of the list could be provided to the Government if it so wished. On 15 December 1989, the Government was also informed of one case which was considered clarified by the Working Group on the basis of the information submitted by the source.

220. During the period under review, the Government has provided no new information on any of the outstanding cases of disappearance and the Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations

221. At its twenty-ninth session the Working Group met with witnesses and members of the Association of Relatives of Sahraoui Prisoners and Detainees (AFAPREDESA) who submitted cases of disappearances alleged to have occurred in Western Sahara between 1975 and 1989. They stated that such disappearances had occurred in the context of action being taken by the Moroccan Government against members and sympathizers of the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro. They also alleged that many persons had been tortured in Moroccan prisons and others executed. Members of the organization and witnesses also asserted that the relatives of missing persons who had addressed inquiries to the authorities on the fate of the disappeared had received no information and had frequently been threatened or warned not to pursue their search. The witnesses stated that the arrests preceding the disappearances had often been carried out by combined forces consisting of police and state security agents, sometimes acting in civilian clothes. In this context the Association submitted reports on some 80 cases of disappearance, further details of which would be provided to the Working Group as and when available.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	18
III.	Total number of cases transmitted to the Government by the Working Group	22
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	13
	(b) Cases clarified by Government's responses	0
V.	Cases clarified by non-governmental sources a/	5

a/ Persons released: 5.

Mozambique

Information reviewed and transmitted to the Government

222. The Working Group's activities in relation to Mozambique are recorded in its last report to the Commission. 1/

223. During 1989, the Working Group received no new reports of disappearances in Mozambique, but by a letter dated 12 May 1989 the Government was reminded of the one case transmitted to it in the past which remains unclarified. There has been no response from the Government, however, and the Working Group regrets that it is unable to report to the Commission on the results of any investigations which might have been carried out.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

Nepal

Information reviewed and transmitted to the Government

224. The Working Group's activities in relation to Nepal are recorded in its last three reports to the Commission. 1/

225. During 1989, the Working Group received no new reports of disappearances in Nepal, but by a letter dated 12 May 1989 the Government was reminded of the four cases transmitted to it in the past which remain unclarified. There has been no response from the Government, however, and the Working Group regrets that it is unable to report to the Commission on the results of any investigations which might have been carried out.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	4
III.	Total number of cases transmitted to the Government by the Working Group	5
IV.	Government responses	0
V.	Cases clarified by non-governmental sources a/	1

a/ Person released: 1.

Nicaragua

Information reviewed and transmitted to the Government

226. The Working Group's activities in relation to Nicaragua are recorded in its last nine reports to the Commission. 1/

227. No cases of disappearance were reported to have occurred in 1989. By a letter dated 15 December 1989, the Working Group transmitted to the Government of Nicaragua one case of disappearance reported to have occurred in 1986. Furthermore, by a letter dated 12 May 1989, the Working Group reminded the Government of the 87 outstanding cases. Concerning the case transmitted by the Group on 15 December 1989, it must be understood that the Government could not respond prior to the adoption of the present report.

Information and views received from relatives of missing persons or from non-governmental organizations

228. The only newly reported case of disappearance received by the Working Group since the last report to the Commission was submitted by the Nicaraguan Association for Human Rights. During the period under review, information of a general nature on cases of disappearance has been received by the Working Group from Amnesty International and the Nicaraguan Committee on Human Rights, headquartered in Brussels. The latter alleged that a number of political prisoners had disappeared and that slow and ineffective investigations carried out by the Government favoured impunity for perpetrators of human rights violations.

229. Amnesty International stated that disappearances of civilians in zones of conflict were often temporary, caused by delays in the acknowledgement of arrests and the transfer of detainees from one centre to another without informing the families. The forced evacuation of populations and their resettlement in other localities and the "Contras" practice throughout the war of abducting civilians added further difficulties to the investigation of disappearances.

Information and views received from the Government

230. In his statement before the forty-fifth session of the Commission on Human Rights, the Representative of Nicaragua extended an invitation to the Working Group to visit the country. By a letter dated 2 March 1989, which the Chairman addressed to the Permanent Representative of Nicaragua to the United Nations Office at Geneva, the Government was advised that a written invitation was required, but at the time of the preparation of its present report no written invitation had been received by the Working Group.

231. By a letter dated 30 March 1989, the Government provided the following replies on three cases of disappearance: according to the statement of a former member of the army made in the course of his trial for treason, one of those three persons, members of the counter-revolutionary forces, died in an encounter with the army; as regards the two others it was assumed that they had joined the counter-revolutionary forces in Honduras.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	88
III.	Total number of cases transmitted to the Government by the Working Group	218
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	175
	(b) Cases clarified by Government's responses a/	110 c/
V.	Cases clarified by non-governmental sources b/	19

a/ Persons at liberty: 16. Persons in prison: 7.
Persons dead: 62.
Salvadorian fishermen not detained in the country: 11.
Persons who joined counter-revolutionary forces: 12.
Persons abducted by counter-revolutionary forces: 2.

b/ Persons executed or killed in armed confrontation: 11.
Persons at liberty: 4. Persons in prison: 2.
Person living abroad: 1. Person who joined a rebel group: 1.

c/ In a revision of the files, it was found that as of 9 December 1989 the total number of cases considered clarified by the Government should read 110 instead of 111.

Panama

Information reviewed and transmitted to the Government

232 By a cable dated 22 November 1989, the Working Group transmitted to the Government of Panama, under the urgent action procedure, one case of disappearance reported to have occurred in 1989.

Information and views received from relatives of missing persons or from non-governmental organizations

233. The above-mentioned case was reported by Christian Democrat International and concerned a journalist who was allegedly arrested on 16 November 1989 at his workplace, Radio Ondas del Caribe, by members of the armed forces (G2). Since then his whereabouts remain unknown. Steps taken by the authorities had yielded no results.

Statistical summary

I.	Cases reported to have occurred in 1989	1
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

Paraguay

Information reviewed and transmitted to the Government

234. The Working Group's activities in relation to Paraguay are recorded in its last eight reports to the Commission. 1/

235. It should be noted that the Group has received no reports of disappearances occurring in Paraguay since 1977. However, by a letter dated 12 May 1989, the Working Group reminded the Government of the three outstanding cases and expressed concern regarding the protection and security of members of relatives' organizations who had allegedly been arrested because of their activities related to the search of the disappeared. In the same letter the Group again requested the Government to take urgent measures in order to establish the identity of four children, believed to have been born during their mothers' detention in Argentina, who had been taken to Paraguay before Argentine courts could obtain evidence of their filiation through haematogenic tests. As indicated in paragraph 48, two of the children went back to Argentina, after the Paraguayan courts agreed to the extradition of the former Police Commissioner with whom they were living.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	23
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	23
	(b) Cases clarified by Government's responses a/	20

a/ Persons arrested or abducted in Argentina: 5.
Persons arrested and expelled to Brazil: 4.
Persons detained and released: 4.
Persons whose transfer to Argentina was witnessed: 2.
Persons whose transfer to Uruguay was witnessed: 2.
Persons dead: 1. Persons living abroad: 2.

Peru */

Information reviewed and transmitted to the Government

236. The activities of the Working Group in relation to Peru are recorded in its last five reports to the Commission. 1/

237. During 1989, the Working Group transmitted to the Government of Peru 465 newly reported cases of disappearance. It was reported that 404 of them occurred in 1989. Forty-six cases were transmitted by a letter dated 12 May 1989, 23 by a letter of 4 October 1989, 56 by a letter dated 15 December 1989 and 340 by various cables under the urgent action procedure. The Group also retransmitted to the Government a total of 64 cases containing additional information received from the sources. As regards the cases transmitted in December 1989, in accordance with the methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

238. The Working Group advised the Government that eight cases had been considered clarified on the basis of replies received from it and 85 on the basis of information provided by the sources. Four additional cases would be considered clarified provided the sources did not raise objections within six months. Furthermore, the files of the Working Group were revised and it was found that three cases had been duplicated. The statistics were adjusted and the Government informed accordingly.

239. By its letter of 12 May 1989, the Working Group reminded the Government of the outstanding cases and expressed concern regarding the protection and security of members of relatives' or human rights' organizations and lawyers, who had allegedly been subjected to harassment and death threats.

240. The Group reminded the Government of 77 cases transmitted under the urgent action procedure in 1988 by a letter dated 24 February 1989 and of 125 cases transmitted during the first six months of the year by a letter dated 4 August 1989 (see para. 26). By its letter of 4 October 1989 the Working Group informed the Government of reports it had received about developments in Peru having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

241. In accordance with a decision taken by the Working Group at its twenty-seventh session (see para. 13), a letter dated 23 May 1989 was sent to the Government reminding it of the conclusions and recommendations included in the reports on past missions to the country and requesting information on the consideration given to them.

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*/ Mr. Diego García-Sayán did not participate in the decisions relating to this subsection of the report.

Information and views received from relatives of missing persons or from non-governmental organizations

242. The cases transmitted during 1989 were submitted by Amnesty International, the Episcopal Social Action Commission (CEAS), the Human Rights Association (APRODEH), the Committee of Relatives of Disappeared Detainees and Refugees in Lima (COFADER), the Human Rights Commission (COMISEDH), the Andean Commission of Jurists and the Ecuadorian National Commission on Human Rights.

243. The departments that appear to be most seriously affected are Apurimac (167), Ayacucho (62), Huancavelica (30), Junín (33), Lima (18), Ucayali (19) and San Martin (41). The forces which most frequently were alleged to be responsible were the Army (376), the Armed Forces (18) and the Police (43).

244. The above-mentioned organizations as well as the Coordinadora Nacional de Derechos Humanos (Co-ordinator for the main non-governmental human rights organizations) also provided a number of general reports on the human rights situation in Peru. In these reports they expressed the view that the violence had considerably increased during the last two years. They asserted that the practice of disappearances, initiated during the term of office of President Belaunde, had continued during the present administration. The figures for 1988 and 1989 demonstrated the gravity and scope of the phenomenon which was part of a counter-insurgency strategy that included massive and unrestricted detention of citizens, the systematic practice of torture, extrajudicial executions, destruction of communities and different kinds of ill-treatment of the civil population, including women and children. This strategy had allegedly been applied by military forces in the zones under a state of emergency. Moreover, a new factor of violence had emerged in 1988 with the appearance of groups operating under the name of the "Rodrigo Franco" command; their activities were said to reveal a connection with Government forces as none of their members had been arrested and none of their leaders identified. The largest operation by this group was reportedly taking place in Ayacucho, where a campaign of intimidation and death threats was conducted against lawyers, journalists, human rights defenders and relatives of missing persons.

245. The organizations drew attention to the fact that, during 1989, the Government had extended the state of emergency in time in some areas and in territorial scope in others. Constitutional safeguards such as inviolability of the home, freedom of circulation, right of assembly and detention solely on court order were suspended in areas under a state of emergency, where the military-political commands acted, de facto, as the supreme regional authority. According to the reports, the increasing power of the armed forces in zones under a state of emergency resulted in a rising number of serious violations of human rights, in particular disappearances. They stated that detentions in those zones were carried out without warrant; that the armed forces did not notify any civilian authority of arrests and routinely denied to the courts and attorneys that reported arrests had been made; and that the armed forces generally denied all access by civilian authorities to prisoners in military establishments and refused information on those held in custody.

246. According to the reports received, very often disappearances occurred in the context of raids by the armed forces (and sometimes the police) of indigenous communities during which peasants were subjected to ill-treatment. In general the male population was accused of supporting terrorism, arrested and taken to barracks or other military detention centres. According to the reports, some of them were released, allegedly after torture, others were executed and many remained disappeared. Sometimes, prisoners were turned over to the police after prolonged secret detention. In these cases detentions were only acknowledged to have occurred from the date the detainees appeared in police custody and when public prosecutors were advised of that fact.

247. The Working Group also reported that they had obtained evidence regarding the fate of missing persons from those who had reappeared. Several such persons reported that they had been tortured in military detention centres and had seen persons later reported disappeared. Recent reports alleged that clandestine detention centres were increasingly being used for interrogation and torture.

248. Regarding the investigations into cases of disappearance, the organizations stated that most of the cases remained unclarified, despite the efforts made by the Office of the Public Prosecutor. When evidence was obtained by public prosecutors on the responsibility of military forces for serious violations of human rights, criminal proceedings were instituted only in very exceptional cases; special commissions appointed by the Government for the investigation of such human rights violations frequently ignored such evidence.

249. According to the organizations, the appointment in 1987 of a Senior Public Prosecutor (Fiscal Superior) to serve as a Special Commissioner for the investigation of disappearances in the department of Ayacucho was an important step. However, they reported that he had encountered serious obstacles when he initiated investigations into the massacre of more than 30 peasants at Cayara and his activities had therefore been suspended by the Attorney-General, notwithstanding the protests of the national bodies engaged in the defence of human rights.

250. One organization stressed the active role played by the recently created Fiscalía Especial de Defensoría del Pueblo y Derechos Humanos, despite its lack of resources, in trying to find out the whereabouts of disappeared persons. As for the right to habeas corpus, although it remains in force even under the State of Emergency, the organizations pointed out that its implementation was very difficult in cases of disappearance, since it was frequently not possible to indicate the exact place of detention.

251. As for the legislation, the organizations reported that two significant draft bills submitted to Parliament were the "Offences Committed in the course of Duty Bill", which proposed severe penalties, including penalties under the Criminal Code, for perpetrating enforced disappearances, and the draft amendment to Act No. 24,150, the latter authorizing the setting-up of the military-political commands in the emergency zones. Both drafts, however, had been kept in abeyance.

252. Concerning the Government's request that cases transmitted to it should contain more complete identity data (see E/CN.4/1989/18, para. 240), some organizations indicated that the majority of disappeared people were persons living in extreme poverty and therefore socially marginalized in urban and rural areas. That was why many such persons lacked documentation. Although illiterate persons had a voter's card, many of them lived very far from administrative centres (where documentation offices are situated) and they could not obtain their documents.

253. The Co-ordinadora Nacional de Derechos Humanos, in a statement made before the Working Group at its twenty-eighth session, stated that the Group's recommendations always exerted an influence - if only temporary - on Governments which tolerated or encouraged enforced disappearances. That had been the case with Peru. They then requested the Group, in the context of para. 11 of the Commission on Human Rights resolution 1989/27, to make an appeal to the Peruvian authorities exhorting them to comply with the recommendations made in the course of its visits and to prevent the practice of disappearances and detentions in the country.

Information and views received from the Government

254. In the course of the current year, the Government provided replies on 126 cases of disappearance. In the majority of them, the Government indicated that the persons had not been arrested by military or police forces or that the case was under investigation. In some others it pointed out that the person had been detained and later released or put under custody or at the disposal of a judge. Eight cases were subsequently considered clarified by the Working Group.

255. During its twenty-seventh session, the Working Group met with a representative of the Government of Peru who assured the Group of his Government's co-operation. He referred to the general situation of violence in the country and explained the different elements which contributed to it. Terrorist attacks by Shining Path constituted a permanent threat to democratic institutions and in these circumstances some excesses in the conduct of the armed forces could eventually take place. Such conduct, however, was not part of an official policy and, on the contrary, efforts were being made to control the excesses and investigate them.

Statistical summary

I.	Cases reported to have occurred in 1989	404
II.	Outstanding cases	1,734
III.	Total number of cases transmitted to the Government by the Working Group	2,085

IV. Government responses

(a)	Number of cases on which the Government has provided one or more specific responses	290
(b)	Cases clarified by Government's responses a/	86
V.	Cases clarified by non-governmental sources b/	265

a/ Persons detained: 8.
Persons arrested and released: 46.
Persons who obtained a voter's card after the date of their alleged disappearance: 29.
Person found dead: 1.
Person at liberty: 1.
Person abducted by rebels: 1.

b/ Persons dead: 39.
Persons released from detention: 171.
Persons in prison: 45.
Person taken to a hospital after detention: 1.
Persons at liberty: 9.

Philippines

Information reviewed and transmitted to the Government

256. The Working Group's activities in relation to the Philippines are recorded in its previous reports to the Commission. 1/

257. During the period under review, the Working Group transmitted 51 newly reported cases of disappearance to the Government of the Philippines, of which 36 were reported to have occurred in 1989. Of those cases of disappearance transmitted during the present year, 34 were processed by various cables under the urgent action procedure. As regards the four cases transmitted by the Working Group on 15 December 1989, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

258. In accordance with its decision to remind the Government twice a year, of reports of disappearances transmitted during the previous six months under the urgent action procedure (see para. 26), the Working Group, by letters dated 24 February and 4 August 1989, retransmitted the summaries of 38 cases to the Government. By its letter dated 12 May 1989, the Working Group reminded the Government of all outstanding cases. Furthermore, by a letter dated 20 August 1989, the Working Group informed the Government of reports it had received from non-governmental organizations about developments in the Philippines having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

259. At the request of the Permanent Mission of the Philippines to the United Nations Office at Geneva, the Working Group, on 10 March 1989, provided it with the summaries of all cases of disappearance ever transmitted and, on 20 August 1989, with the summaries of all outstanding cases.

260. By letters dated 12 May and 20 September, the Government was notified that, based on its replies, three cases had been considered clarified and four others had been placed under the six-month rule (see E/CN.4/1988/19, para. 27) by the Working Group. By the same letters, the Government was also informed that three cases, transmitted earlier in 1989 under the urgent action procedure, had been considered clarified by the Working Group on the basis of further information provided by the source. By a letter dated 15 December 1989, the Government was informed that with regard to two cases the six months had elapsed without observations from the source requiring further consideration of the cases by the Group.

261. In a letter dated 1 June 1989, the Working Group drew the attention of the Government of the Philippines to the fact that the Commission on Human Rights, in its resolution 1989/27, paragraph 10, had encouraged all Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable it to fulfil its mandate even more effectively.

Information and views received from relatives of missing persons or from non-governmental organizations

262. The majority of newly-reported cases of disappearance were submitted by Task Force Detainees of the Philippines (TFD), the Philippines Alliance of Human Rights Advocates (PAHRA) and Amnesty International. Cases were also received from S.O.S Torture, Asia Watch, the International Commission of Jurists and the Free Legal Assistance Group (FLAG). Many of those who had disappeared were described as members of legally constituted student, labour, religious, political or human rights organizations which military authorities have claimed are a front for the outlawed Communist Party of the Philippines (CPP), and its armed wing, the New People's Army (NPA). Some groups most commonly targeted were said to be the New National Alliance (Bantay Bayan), the First of May Labour Movement (KMU), KADENA (a youth organization), and the National Federation of Sugar Workers - Food and General Trade (NFSW-FGT).

263. Several reports of a general nature were received during the year. Asia Watch submitted "Paramilitary Groups in the Philippines", a report concerning the composition and conduct of such groups; the International League for Human Rights transmitted a document entitled "The Philippines Human Rights Record", the Canada-Asia Working Group submitted "Human Rights in Asia", a general overview in which the situation in the Philippines was examined, and Amnesty International described the human rights situation in the Philippines in several reports it had submitted on disappearances.

264. It was generally alleged that cases of disappearance had increased in frequency during the last year. The majority of these disappearances were allegedly committed by the Armed Forces of the Philippines (AFP), and connected organizations such as the Philippines Constabulary and the Capital Regional Command (CAPCOM). It was also reported that the Civilian Armed Forces Geographical Units (CAFGUs) were responsible for a number of disappearances. The CAFGUs, which were allegedly created as a replacement for the Civilian Home Defence Forces (CHDF), were supposed to have higher standards of recruitment and professional military leadership than the CHDF. However, it was reported that these standards had not been implemented, and that in many areas former members of the CHDF had become members of the CAFGUs.

265. According to a fact-finding mission report submitted by the Ecumenical Movement for Justice and Peace, the National Democratic Front of Negros, and various other reports, disappearances also reportedly occurred in the context of the AFP's "total war" counter-insurgency strategy which saw large-scale military operations in areas of known NPA activity. This forced large numbers of people to move into refugee camps, from which disappearances, allegedly resulting from wide liberties given to paramilitary groups, had reportedly occurred.

266. According to reports submitted to the Working Group, the existence and operation of vigilante groups continued in the Philippines during 1989. Although such groups were officially disbanded in 1988, over 200 reportedly continued to operate, and were said to be responsible for many human rights violations in the country. According to reports received, a large number of these groups had been incorporated into newly-formed Civilian Volunteer Organizations (CVOs), which were said to be financed and supported to varying extents by the armed forces.

267. Non-governmental organizations also asserted that constitutional remedies for human rights violations, in particular the Commission on Human Rights, had not been effective in halting violations of human rights, and that retaliations in the form of murder and death threats had made witnesses unwilling to testify to the Commission and other legal bodies in a number of cases submitted to the Working Group in 1989.

268. It was further reported that mass graves continued to be uncovered by the Armed Forces of the Philippines during 1989, which they believed contained bodies resulting from purges within the ranks of the New People's Army.

269. While the AFP interpreted this to mean that Government forces were not responsible for the disappearance of many persons under the Working Group's consideration, human rights organizations objected to the unsystematic manner in which exhumations had occurred and the lack of forensic analysis of these bodies, which reportedly made either verification or denial of these claims extremely difficult. Subsequently, these organizations stated that they continued to consider persons discovered in mass graves as having been abducted by Government forces.

Information and views received from the Government

270. The Deputy-Permanent Representative of the Philippines to the United Nations attended the twenty-seventh session of the Working Group, during which he assured the Group of his Government's commitment to resolve all outstanding cases of disappearance. He informed the Working Group of concrete measures taken toward this end, including the designation of all city and provincial state prosecutors as human rights co-ordinators, the designation of special prosecutors for human rights violations, and the creation of a task force by the Philippines Commission on Human Rights (CHR) mandated to investigate and solve disappearances.

271. The Deputy-Permanent Representative also informed the Working Group about the creation, under Executive Order 101 of 13 December 1988, of a Presidential Human Rights Committee composed of Senior Justice Officials (such as the Chairman of the Committee on Human Rights, the Secretaries of National Defence, Justice and Foreign Affairs and the Chairman of the Senate Committee on Justice and Human Rights) and two representatives from non-governmental organizations. This Committee was mandated to monitor the situation regarding disappearances, to advise the President and to put a disappearance investigation network into effect.

272. By letters dated 11 May, 4 July, 27 July and 22 September 1989, the Government provided information on cases of disappearance previously transmitted by the Working Group. In 21 cases, reports of investigations carried out by the Committee on Human Rights were provided with findings that disappeared persons were either dead, released, detained in recognized detention centres, or that judicial proceedings had been halted for lack of evidence; in 19 cases, reports were provided on investigations carried out or continuing which, however, were unsuccessful for various reasons; and in eight cases the Government notified that they had been referred to appropriate bodies for investigation.

273. By a letter dated 28 March 1989, the Acting Permanent Representative of the Philippines submitted a "Primer on the Civilian Armed Forces Geographical Unit (CAFGU)", detailing the organization, legal basis, composition, training and role of these bodies.

274. At the twenty-eighth session of the Working Group, the Permanent Representative of the Philippines to the United Nations Office at Geneva extended an invitation to the Working Group to visit the country (see para. 10.)

275. In the course of the twenty-eighth session, the Permanent Representative of the Philippines reiterated her Government's commitment to human rights, informing the Working Group, in particular, of the investigations completed by the Committee on Human Rights and reporting on the specific measures enacted to contribute to the effectiveness of its work. The measures which have not already been set forth in the Group's last report include:

(a) a Supreme Court decision which ruled that Commission Members do not have to be confirmed by the Philippines Congress, strengthening thereby the Commission's independence and autonomy;

(b) the appointment of a multisectoral fact-finding group and quick reaction-team charged with investigation of alleged disappearances, and programmes of legal aid and counselling for victims;

(c) Senate Bill No. 226, still pending, which would add to the fiscal autonomy of the Committee on Human Rights and would grant it prosecutorial powers.

276. The Permanent Representative of the Philippines also outlined the Government's human rights strategy, which encompassed policy, legal and structural reforms and initiatives, effective investigation and prosecution, as well as education, training and information programmes. Some of the major points of this strategy were defined as: directives from the President to relevant authorities ordering that all legal procedures be implemented during arrest and detention and that priority be given to effective investigations when this did not occur; implementation of human rights workshops under the United Nations Programme of Advisory Services in the Field of Human Rights; implementation of human rights reforms by the military, in the form of human rights education and training and certification by the Committee on Human Rights before promotion can occur; the establishment of human rights desks at major headquarters; legislative reforms pending before Congress, in particular a project for the repeal of Presidential Decree No. 1850, which gives exclusive jurisdiction to military courts in cases involving military and police personnel; the provision of seats in peace and order councils for representatives of non-governmental organizations and their participation in both fact-finding bodies and committees which screen CAFGU membership; and the establishment of a Committee composed of governmental and non-governmental bodies charged with the exhumation of mass graves; in this respect, the Permanent Representative stated that help in the area of forensic medicine would be beneficial.

277. The Permanent Representative of the Philippines to the United Nations Office at Geneva also attended the twenty-ninth session of the Working Group, during which she addressed four specific topics raised by the information transmitted to the Government on 20 September 1989. Firstly, the Permanent Representative stated that, according to the Philippines Commission on Human Rights, human rights violations committed by Government forces did not increase during the period under review. Some increase in general violations could be explained by the proven activity of rebel forces. Secondly, the military aspects of the Government's "total war" strategy were set forth as exaggerated and disregarded such component aspects of this policy as rural development and education. The Government's commitment to eliminate the operation of vigilante groups was reiterated, although problems in this regard were acknowledged. Thirdly, although the Permanent Representative recognized that some human rights violations had been perpetrated by CAFGUs, illustrating that flaws existed within this organization, she stated that these forces formed part of the military structure and were therefore punishable for all violations committed. Lastly, the negative assessment of the activities of the Philippines Committee on Human Rights were unjust; the Permanent Representative submitted in this regard a performance report of the Committee between January and September 1989 and stated that the existence of that body may have prevented many human rights violations. She also submitted a document entitled "People's Pulse: The People's Five Year Report on Human Rights, 1985-1989", in which an independent inquiry had established that the people in that country generally felt that human rights were protected more fully now than under the previous Government.

Statistical summary

I.	Cases reported to have occurred in 1989	36
II.	Outstanding cases	456
III.	Total number of cases transmitted to the Government by the Working Group a/	541
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	403
	(b) Cases clarified by Government's responses b/	76
V.	Cases clarified by non-governmental sources c/	9

a/ In a revision of the files, it was found that as of 9 December 1988 the total number of cases transmitted should have read 490 instead of 488, the total number of cases considered clarified by the Government 71 instead of 70, and the total number of cases considered clarified by non-governmental sources 6 instead of 5. The Government was informed and the statistics adjusted accordingly.

b/ Persons reported dead: 14
Bodies located and identified: 2
Persons in prison: 6
Person living abroad: 1
Persons released from detention: 49
Persons at liberty: 3
Person escaped from prison: 1.

c/ Persons dead: 2
Persons in prison: 5
Person released from detention: 1
Person at liberty: 1.

Seychelles

Information reviewed and transmitted to the Government

278. The Working Group's activities in relation to Seychelles are recorded in its previous reports to the Commission. 1/

279. During 1989 the Working Group has not received any new reports of disappearances in Seychelles. By a letter dated 12 May 1989, the Government was reminded of the three outstanding cases.

280. Despite repeated efforts by the Working Group to obtain a reaction from the Government of Seychelles, no further information on investigations carried out by the authorities has been received at the time of the preparation of its present report and the Group, therefore, is still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses	
	(a) Number of cases on which the Government has provided one or more specific responses	3
	(b) Cases clarified by Government's responses	0

Sri Lanka

Information reviewed and transmitted to the Government

281. The Working Group's activities in relation to Sri Lanka are recorded in its last seven reports to the Commission. 1/

282. During the period under review, the Working Group transmitted to the Government of Sri Lanka 102 newly reported cases of disappearance, of which 33 were reported to have occurred in 1989. Twelve cases were transmitted by a letter dated 12 May 1989, 42 by a letter dated 20 September 1989, 28 by a letter dated 15 December 1989, and 20 were transmitted by cables dated 22 March, 20 July, 14 and 22 November 1989 under the urgent action procedure. By communications dated 12 May, 20 September and 15 December 1989, the Working Group also retransmitted 30 cases updated with new information received from the sources. As regards the cases transmitted by the Group on 15 December 1989, it must be understood that the Government could not respond prior to the adoption of the present report.

283. On 12 May and 15 December 1989 the Government was also advised that new information had revealed that three cases transmitted in the past were either not genuine disappearances or were duplications and consequently they had been deleted from the Working Group's list.

284. In its communication dated 20 September 1989, the Working Group advised the Government that on the basis of information given by it one case would be considered clarified provided that within six months the respective family did not make any observations which required further consideration by the Group. By letters dated 24 and 28 February, 27 June and 15 December 1989, the Government was also informed that 13 cases were now considered clarified on the basis of information from the respective sources.

285. Furthermore, on 20 September 1989 the Group conveyed to the Government reports it had received about developments in Sri Lanka having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

286. Consequent upon its relevant decisions in respect of cases treated under the urgent action procedure (see para. 26), the Working Group with its communications dated 24 February and 4 August 1989 respectively reminded the Government of one case which had been transmitted in 1988 and eight which had been transmitted during the first six months of 1989.

Information and views received from relatives of missing persons or from non-governmental organizations

287. The reports received during 1989 emanated from Amnesty International, the Campaign for Democracy and Human Rights in Sri Lanka and/or relatives of the missing persons. Responsibility for the disappearances was attributed mainly to the Special Task Force and armed forces, but it was alleged that 19 of the missing persons had been arrested by members of the Indian Peace-keeping Force (IPKF).

288. In its communication of 16 March 1989, submitting four recent cases of disappearance, Amnesty International observed that although many prisoners had been released following the lifting - on 11 January 1989 - of the State of Emergency imposed in May 1983, many persons had since been arrested during large-scale "anti-subversive" search operations conducted by the security forces in southern areas as a result of continuing violence by groups opposing the Government. The organization emphasized in that letter that some people had been missing since those operations and that the Prevention of Terrorism Act (PTA), which permitted 18 months' detention without charge or trial and without access to relatives and lawyers, remained in force as part of the normal law of Sri Lanka.

289. With its letter dated 2 June 1989, Amnesty International forwarded a copy of its report of May 1989 entitled "Sri Lanka - Continued Human Rights Violations". In the report Amnesty International expressed concern that the Indemnity (Amendment) Act, passed in December 1988, granted indemnity from civil or criminal proceedings being instituted against, for instance, members of the security forces, provided that their actions had been carried out "in good faith", and viewed the Act as providing immunity from prosecution to

those accused of serious human rights violations. Amnesty International believed it could prevent future legal actions concerning human rights abuses allegedly committed from 1 August 1977 to 16 December 1988; and that it could affect the course of the many habeas corpus petitions already filed in the courts by the families of those who had disappeared and those who had been detained for long periods without charge or trial. The organization also expressed concern that the Government had revived a regulation permitting the disposal of bodies by the security forces without post-mortem or inquest on the direction of the Inspector-General of Police or his Deputy, with the approval of the Ministry of Defence.

290. In its letter dated 11 July 1989, submitting information in respect of four persons who had disappeared in June and July, Amnesty International mentioned the reintroduction of the State of Emergency amid widespread political unrest and strikes instigated by the Janatha Vimukthi Peramuna (JVP), People's Liberation Front. As they had done in the past, the JVP had used intimidation in their call for strikes and Amnesty International had expressed concern to President Premadasa that the powers granted to the security forces under the provisions of the State of Emergency, if similar to those granted before January 1989, could facilitate "disappearances" and other human rights violations. It had urged the Government to take all necessary steps to ensure that the rights of detainees were respected by all law enforcement personnel.

291. On 14 July 1989 Amnesty International reported that since mid-June 1989 hundreds of civilians, mainly young men, had been forcibly "recruited" by Sri Lankan paramilitary forces, involving members of the Eelam People's Revolutionary Liberation Front (EPRLF) and Eelam National Democratic Liberation Front (ENDLF), aligned with the Indian Peace-keeping Forces, and forced to participate in the Citizens' Voluntary Force (CVP). Thereafter their whereabouts were often unknown.

292. During the period under review, 13 cases were clarified on the basis of information received from Amnesty International and/or the respective families that 10 missing persons had died in custody, some allegedly as a result of torture, and 3 had been released from detention.

Information and views received from the Government

293. By a communication dated 13 June 1989, the Permanent Representative of Sri Lanka informed the Working Group that one person, whose case had been transmitted on 22 March 1989 under the urgent action procedure, had been arrested but released on 17 March 1989.

294. At its twenty-eighth session, the Working Group met the Permanent Representative of Sri Lanka to the United Nations Office at Geneva, who conveyed his Government's gratitude and respect for the Group's humanitarian work and mentioned the priority given by his Government to co-operation with it. He stated that he was now authorized to inform the Working Group that his Government had no objection to a visit to Sri Lanka by the Group, and he looked forward to having discussions with the Chairman in regard to timing and modalities.

295. Since Sri Lanka had last appeared before the Working Group - in December 1988 - presidential elections followed by parliamentary elections had been held on 19 December 1988 and 15 February 1989 respectively. The Government regarded it as a favourable sign when, in April 1989, the Liberation Tigers of Tamil Eelam (LTTE) responded to the call of the President to talk directly to the Sri Lankan authorities without the participation of a third party; negotiations had begun that month, and at the end of June the LTTE had announced its decision to cease hostilities against the security forces and to henceforth resolve matters through negotiations and discussions with the Government.

296. He stressed that the Government, when it began discussions with the LTTE, had made it very clear that the final political settlement would be reached in consultation with all the Sri Lankan parties concerned, including specifically the Eelam People's Revolutionary Liberation Front (EPRLF) which heads the administration of the North East Provincial Council. As the Indian Peace-keeping Force had not been able to fulfil its mission to disarm the LTTE and its continued presence was being used to rouse anti-Government feeling, the President had requested the Government of India to withdraw its troops. The request had been the subject of negotiations between the Indian and Sri Lankan authorities but the majority of the Indian Army units remained.

297. In April 1989 the President had offered an amnesty to groups engaged in violence and called on them to surrender their arms. The desired response had not been achieved, however, a major constraint being the groups' claim that the Government had been unable to ensure the withdrawal of Indian Army units. Violence had so escalated that the State of Emergency which had been lifted on 11 January 1989 reluctantly had had to be re-introduced on 20 June 1989, mainly because of the heavy toll of human lives as a result of violence - occasioned in part by the presence of the IPKF.

298. Under the State of Emergency, the normal machinery in operation under the legal process had been unable to make substantial headway but habeas corpus petitions continued to be filed as before and heard by the same judges, and in some instances those judges had ruled against the security forces and ordered that compensation be paid to the victims. Every attempt was made to expedite the processing of all habeas corpus cases filed before the Supreme Court but the main difficulty was that investigations could not be conducted expeditiously because most of the forces were preoccupied with trying to prevent violence and lawlessness in the country.

299. At its twenty-ninth session the Working Group again received the Permanent Representative of Sri Lanka, who stated that his Government held the accomplishments of the Working Group in particular esteem, and that co-operation with the United Nations and its bodies dealing with human rights had been a consistent policy of Sri Lanka.

300. The Permanent Representative reported that since he had last met the Working Group, the Government had persisted in its multifaceted endeavours to restore peace and normalcy, and continued to give effect to the devolution of power in the north and east. The continued failure of the Indian forces to disarm some of the Tamil militant groups posed a number of dangers but the Government had been able to secure the participation of the main Tamil militant group (LTTE) in a process of negotiation. The LTTE had further

indicated that they were willing to face free and fair elections with other Tamil groups on the completion of the withdrawal of the Indian forces, a process which should be completed before 31 December 1989. Nonetheless, the Government had been deeply concerned about recent reports concerning the formation of further illegal armed groups in the eastern part of the country and resulting clashes between various Tamil groups there and was pursuing this matter with the authorities of the North-East Provincial Council and the Indian Government.

301. Since the Permanent Representative last appeared before the Working Group, there had been an escalation of violence in areas other than the north and east, and despite repeated offers by the Government, those groups which still remained outside the mainstream of democratic politics had not accepted the invitation to participate in political negotiations. There were recent indications, however, that the level and intensity of violence had abated.

302. The Government had convened an All Party Conference (APC), which had brought to the fore a number of human rights concerns, and the Permanent Representative recalled that when the Government had decided to appoint an independent committee comprising retired Supreme Court judges to monitor the observance of a ceasefire, one of the concerns had been that certain acts of violence seemed to have been carried out by groups other than regular security forces or known militant groups. Pursuant to the APC discussions the President of Sri Lanka had issued definite and clear instructions to the security forces and police to identify and disband any illegal paramilitary forces operating in any part of the country.

303. The Permanent Representative informed the Working Group that his Government had decided to invite the International Committee of the Red Cross (ICRC) to send a delegation to Sri Lanka. The ICRC activities had begun and they had already visited places of detention and had been provided with all necessary facilities and free access to information from both governmental and non-governmental sectors including the press, humanitarian organizations in Sri Lanka and the general public. The Government's position concerning a visit to Sri Lanka by the Group remained valid.

304. The Government had initiated a procedure to ensure that senior field officers of the security forces informed the Chief Civilian Officers of the area (the Government Agents in respective Districts) of the names and other details of all persons taken into custody for suspected subversive activities. This would help relatives to communicate with detainees through civilian authorities and to provide legal and other assistance. Security personnel had also been instructed to furnish names and particulars of those detained to nominated political party representatives, on request, and the relevant authorities had further provided a full list of persons detained to the Parliament's Human Rights Committee.

305. The State of Emergency which had had to be reintroduced was renewed on a monthly basis by Parliament after a debate. Detention orders issued under emergency regulations were subjected to judicial review and the Courts would examine whether the security authorities had misdirected themselves on the law. The Writ of Habeas Corpus was available even under the emergency regulations.

306. Referring to the Indemnity Act, the Permanent Representative emphasized that the Act was not intended to provide blanket immunity for any member of the security forces who did not respect the rule of law; rather, it provided that indemnity should apply to acts carried out in good faith and required that such acts should be done in the execution of duty.

Statistical summary

I.	Cases reported to have occurred in 1989	33
II.	Outstanding cases	901
III.	Total number of cases transmitted to the Government by the Working Group	936
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	232
	(b) Cases clarified by Government's responses a/	14
V.	Cases clarified by non-governmental sources b/	21

a/ Persons released: 11
Persons detained: 3.

b/ Persons released: 7
Person detained: 1
Persons who died in custody: 13.

Syrian Arab Republic

Information reviewed and transmitted to the Government

307. The Working Group's activities in relation to the Syrian Arab Republic are recorded in its last seven reports to the Commission. 1/

308. By a letter dated 20 September 1989, the Working Group transmitted to the Government of the Syrian Arab Republic two newly reported cases of disappearance and reminded the Government of the one earlier case which continued to be listed as outstanding.

309. By a letter dated 15 December 1989, the Working Group informed the Government that the two newly reported cases were now considered clarified on the basis of its reply and a subsequent confirmation of its content received from the sources.

Information and views received from relatives of missing persons or from non-governmental organizations

310. The reports on the two cases of disappearance in Syria were submitted by both Amnesty International and organizations acting on behalf of the respective families, and concerned two brothers who had disappeared in November and December 1987 in Damascus. The sources later informed the Working Group that the persons had been visited in prison by their relatives.

Information and views received from the Government

311. By a letter dated 20 October 1989, the Permanent Representative of the Syrian Arab Republic forwarded the reply of the competent authorities to the effect that the two persons recently reported missing in Syria were under arrest because they had broken the law; investigation was in progress according to the judicial procedures and trial would take place as soon as possible. It was also mentioned that the respective families had visited them at the place of their detention.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	5
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	5
	(b) Cases clarified by Government's responses a/	3
V.	Cases clarified by non-governmental sources b/	1

a/ Persons detained: 3.

b/ Person released: 1.

Uganda

Information reviewed and transmitted to the Government

312. The Working Group's activities in relation to Uganda are recorded in its first and fifth to ninth reports to the Commission. 1/

313. No cases of disappearance were reported to have occurred in 1989. However, by a letter dated 12 May 1989, the Group reminded the Government of the 13 outstanding cases dating back to the period from 1981 to 1985. During the period under review, the Government has provided no new information on any of those cases and the Group, therefore, is still unable to report on the fate or whereabouts of the missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations.

314. In April 1989 Amnesty International transmitted to the Working Group a report entitled "Uganda : The Human Rights Record 1986 - 1989", according to which the situation of human rights had improved considerably since the National Resistance Army (NRA) took firm control of the country in January 1986. The report points out that the new Government has ratified international human rights treaties and introduced domestic safeguards against human rights violations. The return of security to many parts of the country, the more disciplined behaviour of the army and increased respect for the law were cited as particular signs of improvement.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	13
III.	Total number of cases transmitted to the Government by the Working Group	19
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by Government's responses a/	1
V.	Cases clarified by non-governmental sources b/	5

a/ Person released: 1.

b/ Persons released: 3
Person who died in detention: 1
Person detained: 1.

Uruguay

Information reviewed and transmitted to the Government

315. The Working Group's activities in relation to Uruguay are recorded in its last eight reports to the Commission. 1/

316. It should be noted that the Group has received no reports of disappearances occurring in Uruguay since 1982. By a letter dated 12 May 1989 the Working Group reminded the Government of the 31 outstanding cases, dating back to the period 1973-1982.

317. By a letter dated 15 December 1989 the Group retransmitted one case updated with new information received from the sources, and by a letter of 20 September 1989 the Group informed the Government of reports it had received about developments in Uruguay having an influence on the phenomenon of disappearances or on the evolution of cases not yet clarified.

Information and views received from relatives of missing persons and from non-governmental organizations

318. The case retransmitted to the Government was brought up to date on the basis of information provided by FEDEFAM, the Association of Mothers and Relatives of Missing Uruguayan Detainees, the Legal and Social Studies Institute, and the Peace and Justice Service. It related to a child who was detained in 1976 together with his mother when he was 20 days old and who had been missing ever since. According to the complainants, the parents allegedly found a child whom they suspected to be their son living with an adoptive family which refused to undergo blood compatibility tests. Once the complaint was made, the prosecutor recommended that the file should be sent to the Executive for a decision as to whether the case was covered by the Act on the Expiry of the Exercise of Punitive Action by the State. The complainants expressed concern about the situation, since, according to them, the purpose of the complaint was to establish the child's identity, not to have offences committed by military officers investigated.

319. Human rights organizations such as the International League for Human Rights and the Association of Mothers and Relatives of Missing Uruguayan Detainees criticized Act No. 15,848 of 22 December 1986 (Act on the Expiry of the Exercise of Punitive Action by the State) as depriving the judiciary of power to investigate serious human rights violations which took place during the military Government (see E/CN.4/1988/19, paras. 222-226, and E/CN.4/1989/18, paras. 284-289). The organizations consider that, although the Act was adopted in the referendum held on 16 April 1989 (55 per cent of the votes in favour and 45 per cent against), it might be incompatible with provisions of international law that are binding on Uruguay and, in particular, article 2 (right to an effective remedy) and article 9 (right to compensation of any person unlawfully arrested or detained) of the International Covenant on Civil and Political Rights.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	31
III.	Total number of cases transmitted to the Government by the Working Group	39
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	17
	(b) Cases clarified by Government's responses a/	7
V.	Cases clarified by non-governmental sources b/	1

a/ Persons released from detention: 2
Persons in prison: 4
Child found: 1

b/ Child found: 1

Viet Nam

Information reviewed and transmitted to the Government

320. The Working Group's activities in relation to Viet Nam are recorded in its last four reports to the Commission. 1/

321. No new cases of disappearance were reported to have occurred in 1989. However, by a letter dated 12 May 1989, the Working Group reminded the Government of one case still outstanding which was first transmitted to it in 1985. In a letter dated 15 December 1989, the Working Group expressed its appreciation to the Government for its reply dated 13 November 1989, and informed it that the case would be considered clarified provided that within six months the relevant source did not make any observations which required further consideration by the Group.

Information and views received from the Government

322. By a letter dated 13 November 1989, the Permanent Representative of Viet Nam to the United Nations Office at Geneva provided further information on two cases already considered clarified by the Working Group as well as on the case remaining outstanding. He advised the Working Group of the date when the person was released from prison and where he was residing at present.

Statistical summary

I.	Cases reported to have occurred in 1990	0
II.	Outstanding case	1
III.	Total number of cases transmitted to the Government by the Working Group	7
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	3
	(b) Cases clarified by Government's responses a/	2
V.	Cases clarified by non-governmental sources b/	4

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a/ Persons in prison: 2.

b/ Persons released: 4.

Zaire

Information reviewed and transmitted to the Government

323. The Working Group's activities in relation to Zaire are recorded in its second to fourth and sixth to ninth reports to the Commission. 1/

324. On 14 November 1989 the Working Group transmitted to the Government, under the urgent action procedure, a newly reported case of disappearance which occurred in Kinshasa on 30 September 1989. By a letter dated 12 May 1989, the Working Group reminded the Government of the 11 outstanding cases transmitted in the past.

Information and views received from the Government

325. By a letter dated 27 November 1989, the Government of Zaire provided a report on the various efforts made since 1976 to promote and protect human rights, in particular as regards the phenomenon of disappearances. The report pointed out, inter alia, that the Government was facing certain obstacles related to the vast area of the national territory. Shortcomings existed in the keeping of records by the Registry Office which had made and still made it impossible in every reported case to identify missing persons or determine their fate. It further provided information on two cases of persons who were arrested on 27 August 1989 and subsequently released. The report finally emphasized that since the establishment of the Department of Citizens' Rights and Freedoms in 1986, human rights violations in Zaire had been constantly declining.

Statistical summary

I.	Cases reported to have occurred in 1989	1
II.	Outstanding cases	12
III.	Total number of cases transmitted to the Government by the Working Group	18
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	17
	(b) Cases clarified by Government's responses a/	6

a/ Persons at liberty: 6.

Zimbabwe

Information reviewed and transmitted to the Government

326. The Working Group's activities in relation to Zimbabwe are recorded in its last two reports to the Commission. 1/

327. During 1989, the Working Group received no new reports of disappearances in Zimbabwe, but by a letter dated 12 May 1989 the Government was reminded of the one case transmitted to it in the past which remains unclarified. There has been no response from the Government, however, and the Working Group regrets that it is unable to report to the Commission on the results of any investigations which might have been carried out.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

III. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES IN SOUTH AFRICA AND NAMIBIA REVIEWED BY THE WORKING GROUP

Information reviewed and transmitted to the Government

328. The Working Group's activities in relation to enforced or involuntary disappearances in South Africa and Namibia are recorded in its last nine reports to the Commission. 1/

329. By a letter dated 12 May 1989, the Working Group reminded the Government of South Africa of eight outstanding cases transmitted in the past. By a letter dated 15 December 1989, the Working Group advised the Government that one case would be considered clarified provided that the source did not contest the Government's reply on reasonable grounds within the statutory six-month period (see E/CN.4/1988/19, para. 27).

Information and views received from relatives of missing persons or from non-governmental organizations

330. By a letter dated 28 July 1989, the International Defense and Aid Fund for Southern Africa transmitted to the Working Group allegations concerning disappearances in South Africa as presented in their bi-monthly news bulletin and in newspaper articles. These reports, however, did not contain new cases nor any new elements concerning the cases already transmitted to the Government as required by the Working Group's methods of work.

Information and views received from the Government

331. In a letter dated 30 December 1988, the Permanent Representative of South Africa to the United Nations Office at Geneva informed the Working Group that the person reportedly disappeared in June 1988, whose case was transmitted to the Government on 30 September 1988, had been detained by the police in Johannesburg, but escaped after two days. His escape was under investigation and the person was still at large.

332. In another letter dated 27 July 1989, the Permanent Representative reiterated replies previously given on the eight outstanding cases, stating that the present whereabouts of the eight missing persons remained unknown.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	8
III.	Total number of cases transmitted to the Government by the Working Group	10
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	10
	(b) Cases clarified by the Government's responses	2

IV. COUNTRIES IN WHICH ALL REPORTED CASES OF DISAPPEARANCES HAVE BEEN CLARIFIED

Cuba

Information reviewed and transmitted to the Government

333. The Working Group's activities in relation to Cuba are recorded in its ninth report to the Commission. 1/

334. During 1989 the Working Group received no new reports of disappearances in Cuba.

Information and views received from the Government

335. Subsequent to the adoption of the ninth report, a note verbale was received from the Permanent Mission of Cuba to the United Nations Office at Geneva containing a response on the one case of enforced or involuntary disappearance transmitted by the Group in September 1988.

336. According to the reply the missing person arrived at Puerto Muriel in Cuba on 5 September 1980 by boat to pick up his relatives and subsequently returned alone to the United States of America on the same boat. Investigations carried out by the Cuban authorities led to the conclusion that he was robbed on the high seas since his boat arrived in the United States of America with signs of having been ransacked. Since the source did not contest the reply provided by the Government within the statutory six-month period, the Working Group considered this case clarified.

Statistical summary

I.	Cases reported to have occurred in 1989	0
II.	Outstanding cases	0
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by Government's responses a/	1

a/ Person missing as a result of common crime.

V. CONCLUDING OBSERVATIONS

337. Already a full decade ago, numerous reports of widespread disappearances had been perturbing world public opinion. In 1980 - at the prompting of the General Assembly, the Economic and Social Council and the Sub-Commission - the Commission on Human Rights responded to these reports by setting up the Working Group on Enforced or Involuntary Disappearances. The present report to the Commission is therefore the Group's tenth. At this juncture, a brief review of its activities to date seems warranted. Such an examination will permit the Commission to remind itself of the Group's evolution over the years, and it may help to indicate new directions for the Group to take. The Group has chosen to do this by highlighting a number of aspects of disappearances, both as regards the problem itself, and as regards the approach taken by the Group. Some of these have already been discussed in previous reports to the Commission.

338. In different terms, the Working Group has consistently expressed the view that enforced or involuntary disappearances constitute the most comprehensive denial of human rights of our time. They are a gruesome form of human rights violation which, the Group believes, continue to warrant the unstinting attention of the international community and in particular that of the Commission on Human Rights.

339. In its first two reports, the Working Group specifically dwelt on the question of which human rights and fundamental freedoms are violated as a result of a disappearance. It pointed out that practically all basic human rights of a disappeared person are infringed in one way or another following an abduction. The same holds true, to a greater or lesser extent, for all economic, social and cultural rights guaranteed by the various international instruments. Likewise, the Working Group has drawn attention to the wide circle of victims caused by a disappearance. Family members and other relatives or dependants suffer the immediate consequences of a disappearance. Not only are they subjected to agonizing uncertainty about what happened to their parent, child or spouse, but in many cases also economic hardship and social alienation may be part of their sorry lot. The psychological effects on children are found to be severe, even devastating at times. Children born during the captivity of their disappeared mothers constitute a category all by themselves.

340. Making people disappear seems to be a convenient tactic for suppressing insurgence or stifling dissent, for it takes the victim out of the protective precinct of the law. People regarded as too militant in their quest for social justice or political reform may not be easily silenced by the process of law. The same may be true for people suspected of subversive activities. Yet, regardless of how sophisticated the protection of the individual citizen against abuse by his own Government provided by the law, all legal guarantees and procedural safeguards come to a grinding halt once a person is reported missing. Disappearances continue to manifest themselves in may ways. Yet, whatever form they take, the result is almost invariably the same: once the authorities disclaim any responsibility or knowledge of a particular case, prospects for finding the person alive become increasingly grim.

341. Several features may be emphasized which, in the Working Group's experience, are either contributing factors or corollaries to the incidence of disappearances. One striking relationship is that between states of emergency and serious social or political turmoil or subversive activity. Situations such as these are common and often lead to human rights violations, including disappearances. One of the reasons is that the powers of the civil authorities are being curtailed and the military and security forces are accorded a staggering latitude in maintaining public order as they see fit. Also, the situation may be such that military operations are no longer or too little subject to ordinary democratic control or political guidance. This may be the result of the prevailing balance of power among the various branches of government, or of a deliberate policy of laissez-alier. In the most extreme form, of course, military and security personnel can be consciously used by civilian or military Government as an instrument of repression.

342. In many cases, paramilitary groups carry out disappearances. It is difficult in some situations to identify a direct link between those groups and certain military authorities or other branches of the executive; whilst in other situations the relationship may be all too clear, as evidenced by the absence of any real obstacles to or consequences of their operations.

343. Harassment of witnesses and of relatives is a profoundly disturbing consequence of disappearnces. The increasing number of reports on incidents of this nature have prompted the Working Group to draw the Commission's attention to this issue. It is a practice which essentially adds insult to injury because it is directed at a group which is already vulnerable. The Working Group intends to intensify its contacts with Governments on this matter. The Commission, for its part, should continue to keep a close eye on developments in this regard.

344. Perhaps the single most important factor contributing to the phenomenon of disappearances may be that of impunity. The Working Group's experience over the past 10 years has confirmed the age-old adage that impunity breeds contempt for the law. Perpetrators of human rights violations, whether civilian or military, will become all the more brazen when they are not held to account before a court of law. Impunity can also induce victims of these practices to resort to a form of self-help and take the law into their own hands, which in turn exacerbates the spiral of violence.

345. Military courts contribute significantly to impunity, in the Working Group's experience. A recurrent theme in times of internal crisis or under the doctrine of national security is that military personnel attested to have engaged in gross misconduct, are almost invariably acquitted or given sentences that are disproportionate to the crime committed. Subsequent promotions are even commonplace.

346. One other cause of impunity, apart from the conduct induced by the State, is often institutional paralysis of the judicial system. In particular, the virtual or total lack of implementation of habeas corpus. Paralysis may be due either to overburdening of the judicial system on top of a longstanding lack of resources, or to assassination or systematic intimidation of judicial officers and other magistrates. Paralysis may also occur through lack of co-operation by the executive branch. Habeas corpus, for instance, is

potentially one of the most powerful legal tools for unearthing the fate or whereabouts of a disappeared person. The most sophisticated rules governing this institution, however, are rendered inoperative in a situation where co-operation stops at the barrack's gate. In certain countries, habeas corpus laws have purposefully been subjected to severe restrictions.

347. On the question of impunity and responsibility, the Working Group's position, though clear and consistent from the very beginning, seems worth restating. In line with its non-accusatory approach, the Group does not engage in the attribution of responsibility of indivudual officers or agents of the State for individual cases of disappearances. More generally, the Group remains of the view that those responsible for disappearances should be prosescuted to the full extent of the law, a task that falls on the State. This concern was shared very early on by the General Assembly in resolution 33/173, which is one of the bases for the Group's mandate. The Group is primarily interested in the matter of responsibility from the perspective of prevention of disappearances.

348. Essentially, the mandate of the Working Group as described in Commission on Human Rights resolution 20 (XXXVI) is "to examine questions of enforced or involuntary disappearances". (The distinction between enforced and involuntary, incidentally, is one of historical value only and no longer plays any role in practice.) On the basis of its terms of reference, the Working Group has from its early days operated on three different levels. First of all, and for the most part, the Group has been concerned with individual cases, trying to assist relatives to ascertain the fate and whereabouts of their loved ones. On a second level, the Group has studied situations of disappearances in individual countries; it has recorded its observations in its general reports as well as in special reports following visits to certain countries. Thirdly, it has devoted attention to the phenomenon of disappearances per se, its dynamics and dimensions. This is evident from the conclusions and recommendations in each of its resports to the Commission, as well as from chapters on specific aspects of the problem.

349. It has been argued that the Working Group's approach to individual cases represents at the same time the strongest and the weakest point in its endeavours. Strong, in the sense that the Group opened a window - unique at the time - into the United Nations system, allowing private individuals whose rights have been violated to address the pertinent human rights body swiftly and directly. Weak, in the sense that the Group seeks to clarify cases of disappearances through co-operation with Governments which probably were responsible for them in the first place and who have little, if anything, to gain by strenuous investigations. Be that as it may, the Working Group has insisted repeatedly that its humanitarian approach, perhaps imperfect, is the only real option available to it, and that only through co-operation and dialogue with States can its primary objective - the elimination of disappearances - be achieved. That is still the Group's view today.

350. It is a matter of satisfaction to the Working Group that, through patient and persistent efforts over the years, it has been able increasingly to move Governments towards a more responsive attitude. Indeed, there are only a few countries that have never given substantive replies to the Group's communications. On the other hand, when examining the substantive content of

the co-operation received, one is struck by significant differences. Whereas some Governments have made efforts to comply with the Group's request by providing as much information as possible - Colombia is a case in point - others have, through written subsmissions and oral presentations and often by high-level delegations, tried to inform the Working Group about the political and other circumstances affecting the phenomenon in their countries or of the various problems encountered in the process of investigation. In the past year, this was the case for Argentina, Mexico, the Philippines and Sri Lanka. Although it is difficult to establish clear categories in this regard, the Working Group has attempted to reflect in each country subsection the degree of co-operation it is currently receiving from the Government concerned.

351. Very soon after its creation, the Working Group began to develop a mechanism to deal with the influx of a great many cases of disappearances in a matter that would allow a dynamic response to the needs of people looking for missing relatives and friends. Part of that mechanism was the so-called urgent action procedure, which requires the Chairman in between sessions of the Group to process cases submitted within three months after their alleged disappearance. Even though the overall clarification rate against all outstanding cases is not considerable - it hovers around 7 per cent - clarifications under the urgent action procedure are as high as 25 per cent. This suggests that when acting swiftly, the Group may in effect help to prevent irreparable damage. The urgent procedure was subsequently emulated by other thematic mechanisms of the Commission.

352. Almost from the beginning, the Working Group has relied on visits as a preferred option for assessing the overall situation of disappearances in a given country. Not only does a visit provide an opportunity to obtain first-hand information the matter, it also puts the Group in direct contact with family members, witnesses and non-governmental groups, as well as with the competent authorities at different levels. Working relationships established in the course of a visit usually continue afterwards. A visit also enables the Group to get the views of people from different segments of society, in order to analyse properly the context of disappearances. In 1982, visits were made to Mexico and Cyprus. In 1984, the Group addressed a letter to eight Governments, requesting them to consider the possibility of such a visit. A similar request to five Governments was sent in 1988. The Group's first visit to a country where the phenomenon was still developing occurred in 1985, when two members of the Group went to Peru, following an invitation of the Government. Similar visits took place to Peru in 1986, Guatemala in 1987 and Colombia in 1988. At the moment, the Group has three invitations outstanding to visit El Salvador, Sri Lanka and the Philippines.

353. Since 1985, following reports on its various visits, the Working Group has been able to make headway in the further development of its methods of work. Two features are worth mentioning. The first one relates to the format of its reports: its account of the visit was published as a separate addendum to the main report, so that it might circulate independently. The second more important one, had to do with the manner in which the Working Group expresses a position. As a rule, the Group never submits an evaluation of any given situation of disappearances. Under the various country sections of its general reports, the Group describes to the Commission what action it has taken, and gives a brief summary of the viewpoints submitted by both

governmental and non-governmental sources. The conclusions and recommendations in its 10 general reports do not pertain to the situation in any country in particular, at least not explicitly so. In the four reports on its visits to various countries, however, the Group felt it was in a better position to offer its own analysis of the situation and provide specific recommendations.

354. On the question of country-specific recommendations, the Commission, in resolution 1989/27, asked Governments to give all necessary attention to them. Unfortunately, the Working Group has no information to present on the extent to which any follow-up is indeed being given to those recommendations. This is all the more disturbing as most recommendations are geared to such issues as guaranteeing the right to habeas corpus, setting up tracing mechanisms, strengthening the judicial system and improving the security of non-governmental organizations and human rights activists. Perhaps the Commission should henceforth take a more critical look at this matter and accord it due priority at its fourty-sixth session.

355. As to the format of its reports, the Group soon found a form of presentation which seemed to command the approval of the Commission. The introduction of statistical summaries, further refined in successive reports, as well as graphs, not only provided possibilities for easy reference but also constituted unique features in human rights reporting. Of course, these cannot take away a basic drawback, namely that the figures presented by the Group are based entirely on submissions from external sources, processed according to the Group's criteria. Consequently, they do not necessarily reflect the true dimensions of a given situation of disappearances, which in many cases may be considerably larger; nor do they allow for any comparison between countries or geographical regions.

356. Over the past 10 years, the Working Group has transmitted some 19,000 cases to a total of 41 Governments. It must be remembered that only those cases are being forwarded which conform to the criteria established by the Group. Therefore, the total number of cases examined by the Group, including the ones that did not qualify for transmission, is at least 50,000. Most Governments to which cases had been sent, have made oral presentations to the Group at one time or another. Scores of non-governmental organizations, ad-hoc groups as well as individual witnesses have provided the group with pertinent information during its 29 meetings and its several missions. Some 20 Governments maintain more or less regular contact with the Group. A list of the non-governmental organizations that have addressed themselves to the Group over the years, is contained in annex I of the report.

357. In 1989, the Working Group dealt with some 700 cases said to have occurred in that very same year. This represents an alarming increase since 1988, when the corresponding number of cases totalled some 400. The Group is concernced about this development, in particular over the sharp rise in disappearances in certain countries, as reflected by the statistical summaries in the preceding pages.

358. For a number of years the Group has been stressing the importance of greater awareness of its aims and purpose as well as its modus operandi. Such awareness could, in its view, avoid erroneous ideas about what the Group was

set up to do, prevent false expectations about what it could reasonably achieve and dispel misgivings about how it pursues its mandate. In the light of this, the Centre for Human Rights has recently published an information leaflet on the Working Group in its fact sheet series. Also, and more important for the Commission itself, the Working Group, in 1988, presented for the first time a comprehensive account of the methods of work it had developed over the previous eight years of operation. Since then it has continued to reflect on the development of its methods of work and kept the Commission informed accordingly.

359. The Working Group hopes that enhanced publicity may prompt organizations that have hitherto been unaware of the Group's existence to seek a working relationship with it. This, in turn, may lead to a more diversified flow of information, particularly from those corners of the world where the human rights infrastructure - in terms of grass-root organizations, national commissions and the like - is as yet rather frail.

360. In 1988, for the first time in history, an international judicial body rendered a judgement on cases of disappearances. The Inter-American Court of Human Rights, in deciding three cases that took place in Honduras, made a number of important observations which have a direct bearing on the Working Group's activities and methods of work. First, the Court made a detailed analysis of the internationally recognized principle of the State's responsibility for the human rights violations committed within its territory and its obligations to prevent such violations or to investigate them where they have occurred. It declared that such responsibility continued to exist, irrespective of changes of Government. Also, the Court submitted that the obligation of the State to ivestigate disappearances continued to exist for as long as uncertainty remained concerning the ultimate fate of the disappeared person.

361. These considerations have in different words been retained also by the Human Rights Committee in recent views expressed on cases brought before it under the Optional Protocol. These views are of direct relevance for the Working Group and reinforce the positions it has consistently taken. For in its dialogue with certain Governments arguments had been advanced first of all that cases stemming from a previous political period should not be ascribed to the Government in office and, hence, dropped from the Group's dossier. Secondly, it had been suggested rather strongly that the Working Group should declare inadmissible cases reported to it long after the alleged date of occurrence.

362. The Group, for its part, has always taken the view that a situation of disappearance does not come to an end once no new cases have been reported over a certain period of time. Under its terms of reference, the Group will continue to deal with cases as long as they have not been clarified. It believes that the need to insist on investigation of all cases of disappearances lies at the heart of its mandate. It does so bearing in mind the interest of those who will suffer anguish and bitterness as long as they cannot be assured of the fate or whereabouts of their loved ones. Furthermore, the Group has repeatedly stated that the advent of democracy or civil Government does not, in itself, imply that no new cases of disappearance will occur.

363. On three different occasions, the Working Group has recommended that the Commission on Human Rights, in one form or another, take action on the idea of an international instrument against disappearances. The Group feels gratified that the Sub-Commission is now in the process of elaborating a draft declaration on the subject, generously supported by a number of non-governmental organizations, and has offered some constructive comments. Hopefully, the Sub-Commission will pursue this exercise with all the necessary vigour.

364. The Working Group would like to commend the members of the Secretariat, whose unwavering dedication has allowed the Group to develop its methods of works and to deal with its case load. Particularly in the initial period, when the Group had to find its way through uncharted territory under sometimes trying circumstances, but also up to the present, innovative thinking as well as common sense have been the hallmarks of the Centre's support unit. Sifting through the thousands of communications, entering them into the computer, cross-checking data, correspondence with sources and Governments, preparing documentation, all of this is so labour-intensive that without the Secretariat, the Group would have been utterly helpless. Unfortunately, the Centre for Human Rights has, for several years already, been contending with a chronic shortage in financial and human resources. If immediate remedies are not applied, the level of service to the Working Group will no longer be sustainable. This will inevitably result in backlogs that would not be fair to the families concerned, nor to the respective Governments, for that matter. The Commission would be well-advised to give this question its most serious consideration; its agenda gives it ample occasion to do so.

365. Finally, the Working Group wishes to reiterate that the advisory services system, would be of considerable benefit for many countries where the problem of disappearances has been endemic. It hopes that more and more Governments will avail themselves of the possibilities offered by the United Nations in this regard. As it is in the minds of people that human rights violations are conceived, it is in their minds, and hearts, that consciousness about the inherent dignity of the human person must be instilled. Failing that, it will be quite impossible to end disappearances for all time. In any event, given the difficulties, the road ahead will be long and arduous.

VI. ADOPTION OF THE REPORT

366. At the last meeting of its twenty-ninth session, on 15 December 1989, the present report was adopted and signed by the members of the Working Group on Enforced or Involuntary Disappearances.

Ivan Tosevski (Yugoslavia)
Chairman/Rapporteur

Toine van Dongen (Netherlands)

Jonas K.D. Foli (Ghana)

Agha Hilaly (Pakistan)

Diego García-Sayán (Peru)

Note

1/ Since its creation in 1980, the Working Group has submitted a report to the Commission annually, starting at the Commission's thirty-seventh session. The document symbols of the last nine reports are as follows:

E/CN.4/1435 and Add.1
E/CN.4/1492 and Add.1
E/CN.4/1983/14
E/CN.4/1984/21 and Add.1 and 2
E/CN.4/1985/15 and Add.1
E/CN.4/1986/18 and Add.1
E/CN.4/1987/15 Corr.1 and Add.1
E/CN.4/1988/19 and Add.1
E/CN.4/1989/18 and Add.1

Annex I

LIST OF NON-GOVERNMENTAL ORGANIZATIONS WITH WHICH THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES HAS BEEN IN CONTACT SINCE ITS INCEPTION

Abuelas de la Plaza de Mayo (Grandmothers of the Plaza de Mayo), Buenos Aires;

Academia Mexicana de Derechos Humanos (Mexican Academy of Human Rights), Mexico D.F.;

Acuerdo Paraguayo en el Exilio (APE) (Paraguayan Accord in Exile), Bern;

Agrupación de Familiares de Detenidos Desaparacidos (Chile) (Group of Relatives of Disappeared Detainees) (Chile), Santiago;

Agrupación de Familiares de Detenidos Desaparacidos Paraguayos en Argentina (Group of Relatives of Disappeared Paraguayan Detainees in Argentina), Buenos Aires;

Americas Watch, New York;

Amnesty International (AI), London;

Andhra Pradesh Civil Liberties Committee, Secuanderabad;

Asamblea Permanente de Derechos Humanos de Bolivia, La Paz;

Asamblea Permanente por los Derechos Humanos (APDH) (Permanent Assembly for Human Rights), Buenos Aires;

Asia Watch, New York;

Asociación Centroamericana de Familiares de Detenidos Desaparecidos (ACAFADE) (Central American Association of Relatives of Disappeared Detainees), San José;

Asociación de Familiares de Detenidos Desaparecidos en Colombia (ASFADDES) (Colombian Association of Relatives of Disappeared Detainees), Bogotá;

Asociación de Familiares de Detenidos Desaparecidos y Mártires por la Liberación Nacional (ASOFAMD) (Association of Relatives of Disappeared Detainees and National Liberation Martyrs), La Paz;

Asociación de Familiares de Presos y Detenidos Saharaouis (AFAPREDESA), (Association of Relatives of Saharaoui Prisoners and Detainees), Madrid;

Asociación de Familiares de Uruguayos Desaparecidos (AFUDE) (Association of Relatives of Disappeared Uruguayans), Paris;

Association des familles françaises de prisonniers politiques en Guinée (Association of French Families of Political Prisoners in Guinea), Strasbourg;

Asociación Nacional de Familiares de Secuestrados y Detenidos-Desaparecidos en las Zonas Declaradas en Estado de Emergencia del Perú (ANFASEP) (National Association of Relatives of Abducted Persons and Disappeared Detainees in the Zones under a State of Emergency in Peru), Lima;

Asociación Nicaraguense de Derechos Humanos (ANPDH), (Nicaraguan Human Rights Association), San José;

Asociación Pro Derechos Humanos (APRODEH) (Human Rights Association), Lima;

Association Internationale contre la torture (International Association against Torture), Geneva;

Association Internationale des Juristes Democrates, Brussels;

Association des parents et Amis des Disparus au Maroc, Paris;

Association pour la défense des liberté et des prisonniers politiques en Syrie (Association for the Defense of Freedoms and Political Prisoners in Syria), Geneva;

Bahá'i International Community, New York;

Campaign for Democracy and Human Rights in Sri Lanka, London;

Central Unitaria de Trabajadores (CUT), Bogotá;

Centre international d'information sur les prisonniers, déportés et disparues palestiniens et libanais (International Centre for Information on Palestinian and Lebanese Prisoners, Deportees and Missing Persons), Paris;

Centro de Estudios Legales y Sociales (CELS) (Centre for Legal and Social Studies), Buenos Aires;

Centro de Investigación y Educación Popular (CINEP) (Centre for Research and Popular Education), Bogotá;

Comisión Andina de Juristas, (Andean Commission of Jurists), Lima;

Comisión Centroamericana de Derechos Humanos (Central American Commission on Human Rights), San José;

Comisión de Derechos Humanos de El Salvador (CDHES), (The Human Rights Commission of El Salvador), San Salvador;

Comisión de Derechos Humanos de Guatemala (CDHG) (Guatemalan Commission on Human Rights), Mexico City;

Comisión de Madres y Familiares de los Detenidos-Desaparecidos Alemanes y con Ascendencia Alemana en la Argentina (Commission of Mothers and Relatives of Disappeared Detainees of German Origin or Ancestry in Argentina), Buenos Aires;

Comisión Ecuménica de Derechos Humanos (Oecumenical Human Rights Commission), Quito;

Comisión Episcopal de Acción Social (CEAS) (Episcopal Social Action Commission), Lima;

Comisión Nacional de Derechos Humanos (CONADEH) (National Commission on Human Rights), Lima;

Comisión para la Defensa de los Derechos Humanos en Centro América (CODEHUCA) (Commission for the Defence of Human Rights in Central America), San José;

Comisión Permanente de Derechos Humanos de Nicaragua (CPDHN) (Nicaraguan Permanent Commission on Human Rights), Managua;

Comisión Permanente de Familiares de Desaparecidos y Asesinados (CPFDA), (Permanent Committee of Relatives of Disappeared and Assassinated Persons), Asunción;

Comitato per la Difesa dei Diritti Umani in Siria (Committee for the Defence of Human Rights in Syria), Torino, Italy;

Comité de Defesa dos Direitos Humanos para os Países do Cone Sul orgáo vinculado à Comissao Arquidiocesana de pastoral dos Direitos Humanos e Marginalizados (CLAMOR) (Committee for the Defence of Human Rights in the Southern Cone of the Archdiocesan Pastoral Commission on Human Rights and the Underprivileged), Sao Paulo;

Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) (Committee of Relatives of Disappeared Detainees in Honduras), Teguciagalpa;

Comité de Familiares de Detenidos Desaparecidos Refugiados en Lima (COFADER) (Committee for Disappeared Detainees' Relatives who Have Taken Refuge in Lima), Lima;

Comité de Madres y Familiares de Presos, Desparecidos y Asesinados Políticos de El Salvador, "Monseñor Oscar Arnulfo Romero" (Monsignor Oscar Arnulfo Romero Committee of Mothers and Relatives of Salvadorian Political Prisoners, Disappeared and Assassinated Persons), San Salvador;

Comité de parents de detenus, enlevés et disparues au Liban (Committee of Relatives of Detainees, Disappeared and Abducted Persons in Lebanon), Beirut;

Comité de Solidaridad con los Presos Políticos (CSPP) (Committee of Solidarity with Political Prisoners), Bogotá;

Comité Nacional Pro-Defensa de Presos, Persequidos Desaparecidos y Exiliados Políticos de México (Mexican National Committee for the Defence of Prisoners, Persecuted and Missing Persons and Political Exiles), Mexico City;

Comité Nicaragüense de Derechos Humanos (Nicaraguan Human Rights Committee), Brussels;

Comité para la Defensa de Derechos Humanos en Honduras (CODEH) (Committee for the Defence of Human Rights in Honduras), Tegucigalpa;

Comité Permanente por la Defensa de los Derechos Humanos (PPDDHH) (Permanent Committee for the Defence of Human Rights), Bogota;

Comité Pro Justicia y Paz de Guatemala (Guatemalan Justice and Peace Committee), Mexico City;

Confederación de Asociaciones Cooperativas de El Salvador (COACES), (Confederation of Co-operative Associations of El Salvador), San Salvador;

Confederación de Nacionalidades Amazónicas del Perú (CONAP) (Confederation of Amazonian Nationalities of Peru, Lima;

Christian Democrat International (IDC), Brussels;

Familiares de Desaparecidos y Detenidos por Razones Políticas (Relatives of Disappeared Persons and Persons Detained for Political Reasons), Buenos Aires;

Federación Latinamericana de Asociaciones de Familiares de Detenidos Desaparecidos (FEDEFAM) (Latin American Federation of Associations of Relatives of Disappeared Detainees), Caracas;

Fedération internationale des droits de l'homme (FIDH) (International Federation of Human Rights), Paris;

Federación de Comunidades Nativas Yaneshas de Perú (FECONAYA) (Federation of Yanesha Indigenous Communities of Peru) Villa Rica;

Free Legal Assistance Group (FLAG), Quezon City, Philippines;

Grupo de Apoyo Mutuo por el Aparecimiento con Vida de Nuestros Familiares (Mutual Support Group for the Return of Missing Relatives Alive), Guatemala City;

Grupo de Inicitativa para una Convención Internacional contra la Desaparición Forzada de Personas (Initiative Group for an International Convention against Enforced Disappearances), Buenos Aires;

Grupo de Madres y Familiares de Uruguayos Detenidos Desaparecidos (Group of Mothers and Relatives of Missing Uruguayan Detainees), Montevideo;

Grupo Tortura Nunca Más (GTNM) (Torture Never Again Group), São Paulo;

Instituto de Estudios Legales y Sociales del Uruguay (Legal and Social Studies Institute), Montevideo;

International Commission of Jurists (ICJ), Geneva;

International Committee for the Release of Detained and "Disappeared" Women in Iraq (ICRDDHI), London;

International Defence and Aid Fund for southern Africa (IDAF), London;

International League for Human Rights, New York;

Justica y Paz (Justice and Peace), Barcelona;

Lawyers Committee for Human Rights (LCHR), New York;

Lutheran Office for World Community, New York;

Madres de la Plaza de Mayo (Mothers of the Plaza de Mayo), Buenos Aires;

Madres de Uruguayos Desaparecidos en Argentina (Mothers of Uruguayans who Disappeared in Argentina);

Medical Action Group, Inc. (MAG), Manila;

Minnesota Lawyers International Human Rights Committee, Minneapolis;

Minority Rights Group (MRG), Geneva;

Movimiento Ecuménico por los Derechos Humanos (MEDH), (Oecumenical Movement for Human Rights), Buenos Aires;

National Council of Resistance of Iran (NCR), Paris;

Organisation Mondiale Contre la Torture (OMCT), Geneva;

Pax Christi - International Catholic Peace Movement, Antwerp;

Pax Romana - International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students, Geneva;

People's Mojahedin Organization of Iran, Paris;

Philippines Alliance of Human Rights Advocates (PAHRA), Manila;

Punjab Human Rights Organisation, Ludhiana;

Representación Unitaria de la Oposicion Guatemalteca (RUOG), (United Representation of the Guatemalan Opposition);

Servicio Paz y Justicia (SERPAJ) (Peace and Justice Service), Buenos Aires;

Servicio Justicia y Paz (Justice and Peace Service) Montevideo;

Servicio Paz y Justicia, (Peace and Justice Service), Montevideo;

Sikh Human Rights Group (Canada), Ottawa;

Sikh Human Rights Group (U.K.) Southall;

Socorro Jurídico Cristiano, Monseñor Oscar Arnulfo Romero (Monsignor Oscar Arnulfo Romero Christian Legal Aid), San Salvador, San José;

Task Force Detainees of the Philippines (TFDP), Manila;

The Indonesia Human Rights Campaign (TAPOL), Thornton Heath;

Unidad Nacional de los Trabajadores Salvadoreños (UNTS) (National Unity of Salvadorian Workers), San Salvador;

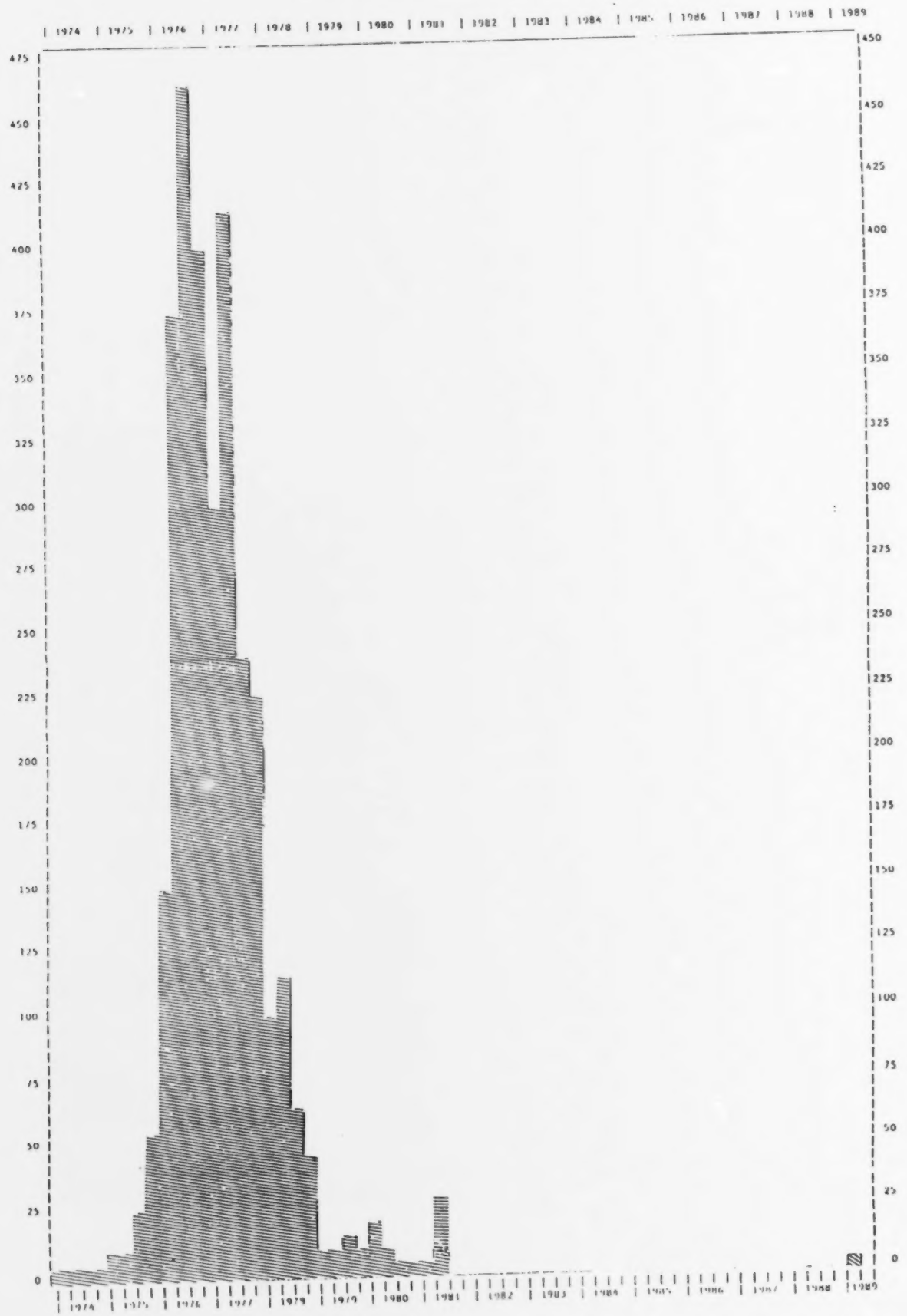
Vicaría de la Solidaridad (Chile), Santiago;

World Council of Churches (WCC), Geneva.

Annex II

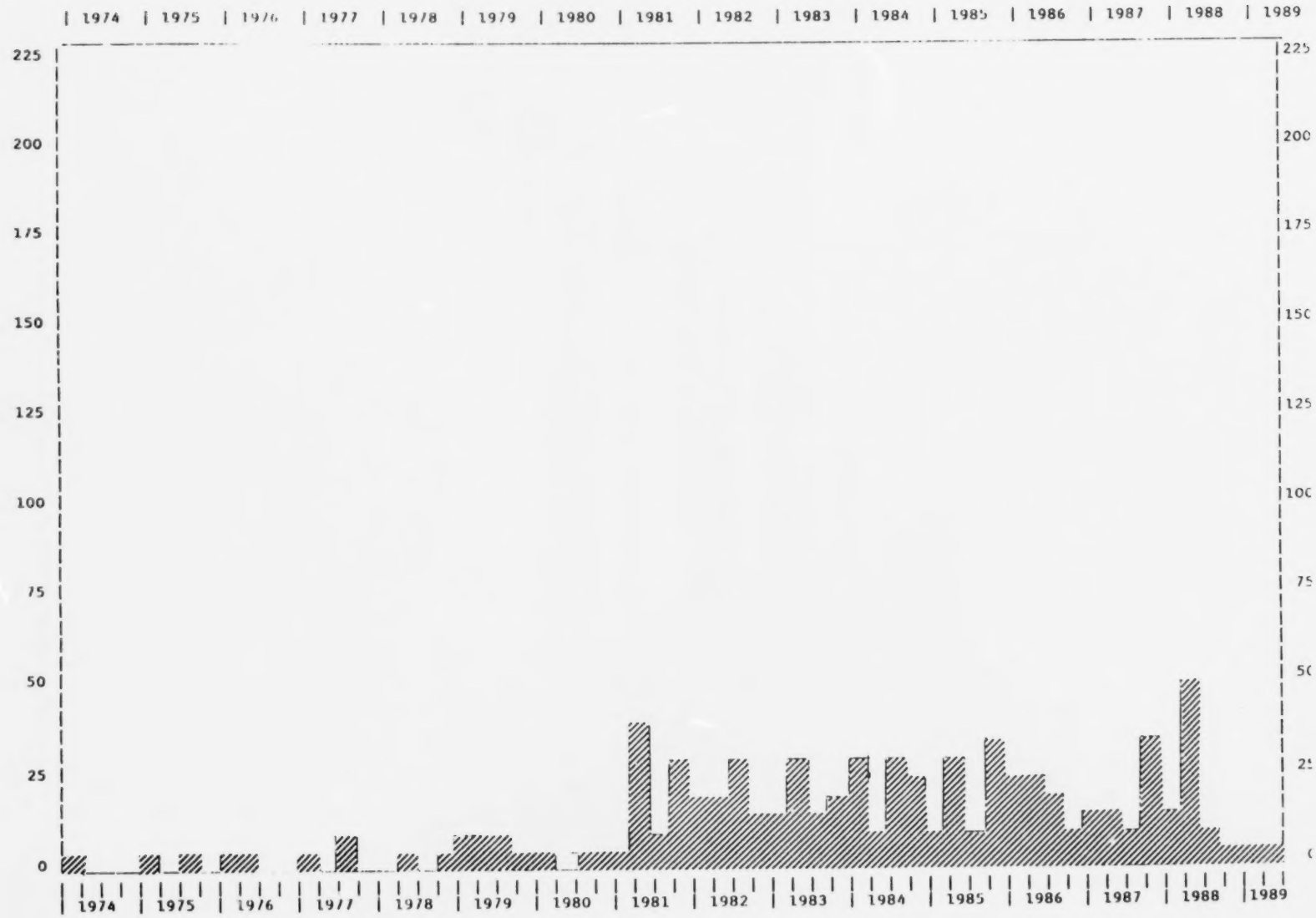
GRAPHS SHOWING THE DEVELOPMENT OF DISAPPEARANCES IN COUNTRIES WITH MORE THAN 50 TRANSMITTED CASES

QUARTERLY NUMBER OF DISAPPEARANCES IN ARGENTINA
OVER THE PERIOD 1974 - 1989

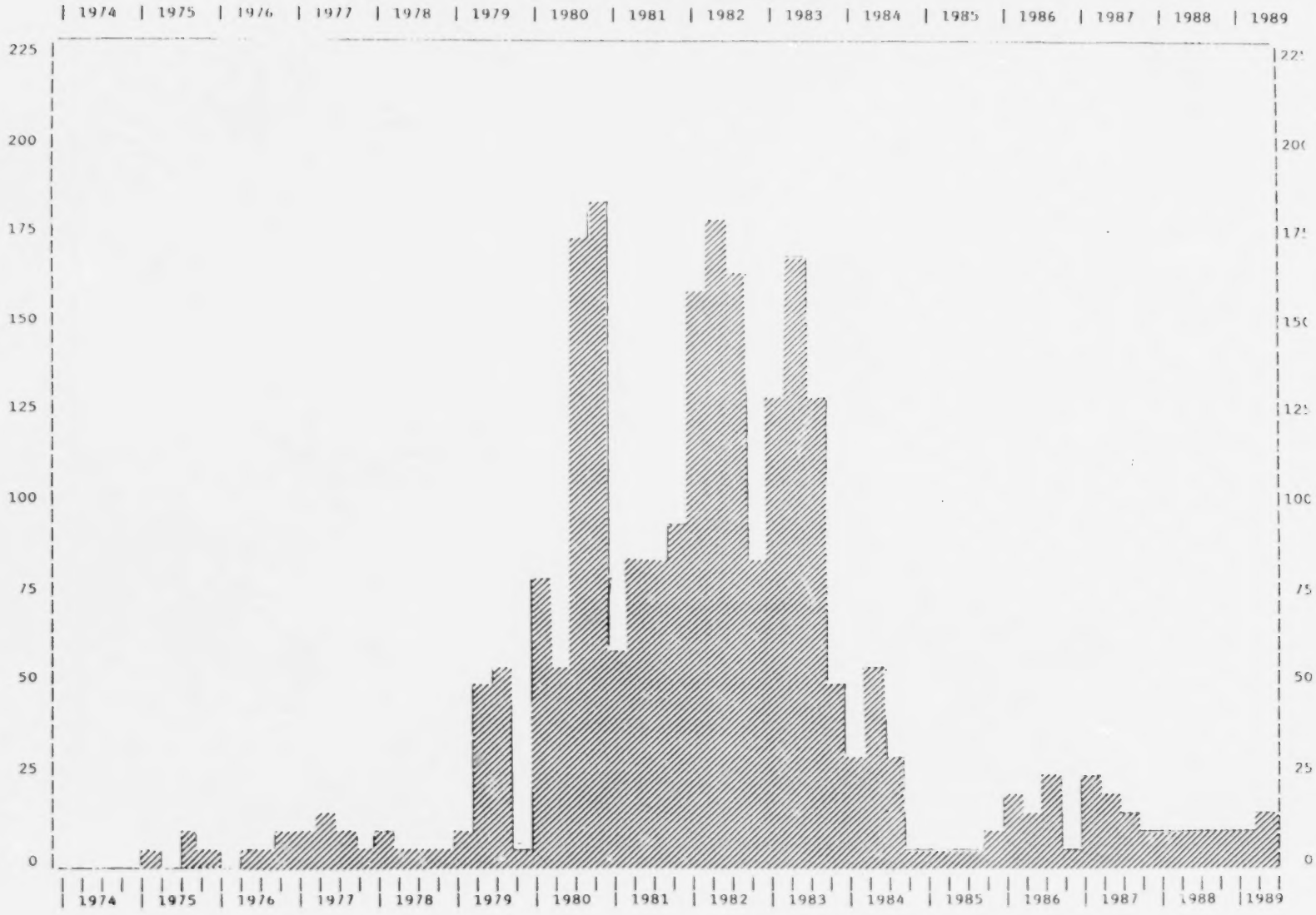


QUARTERLY NUMBER OF DISAPPEARANCES IN CHILE
OVER THE PERIOD 1974 - 1989

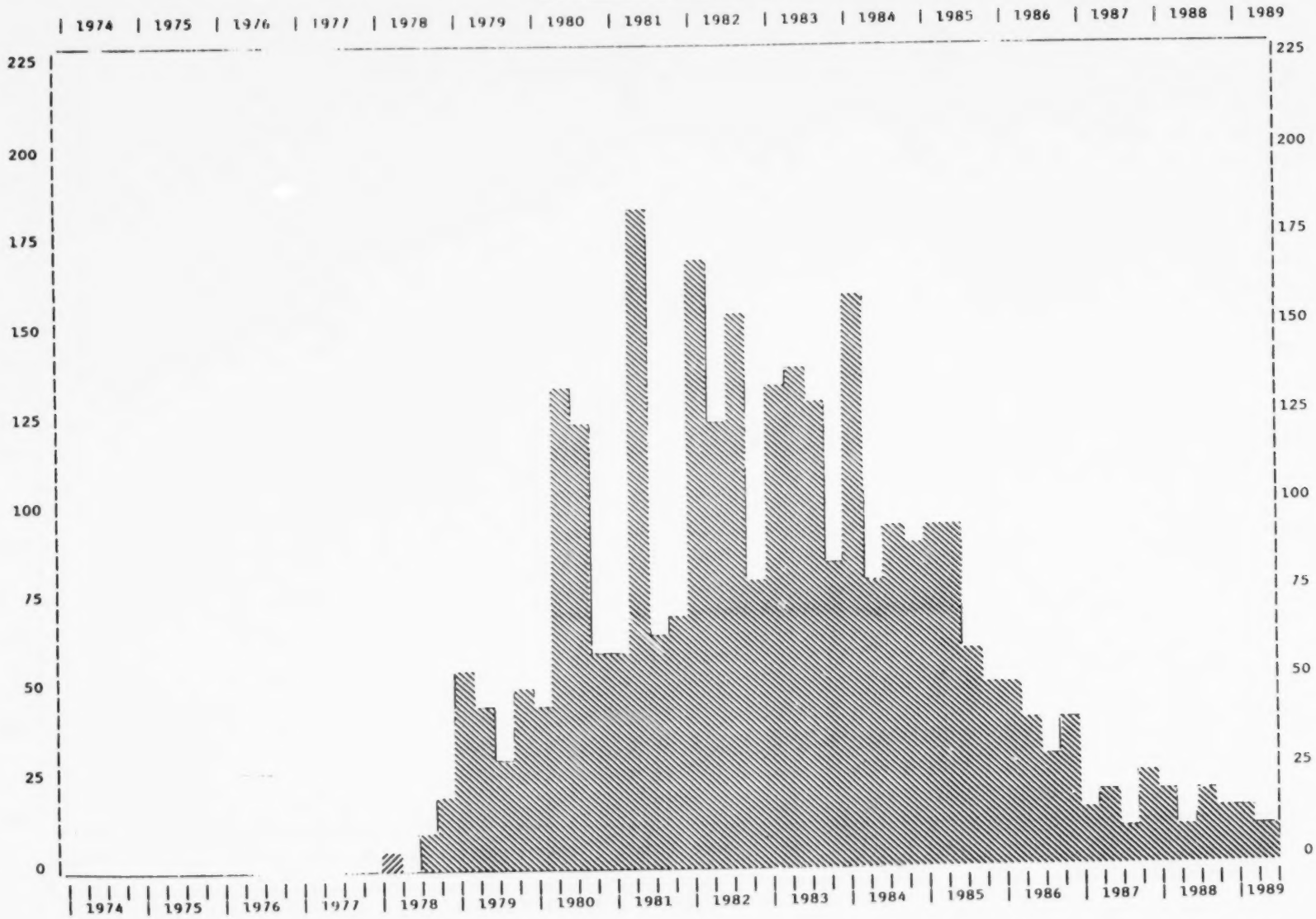
QUARTERLY NUMBER OF DISAPPEARANCES IN COLOMBIA
OVER THE PERIOD 1974 - 1989



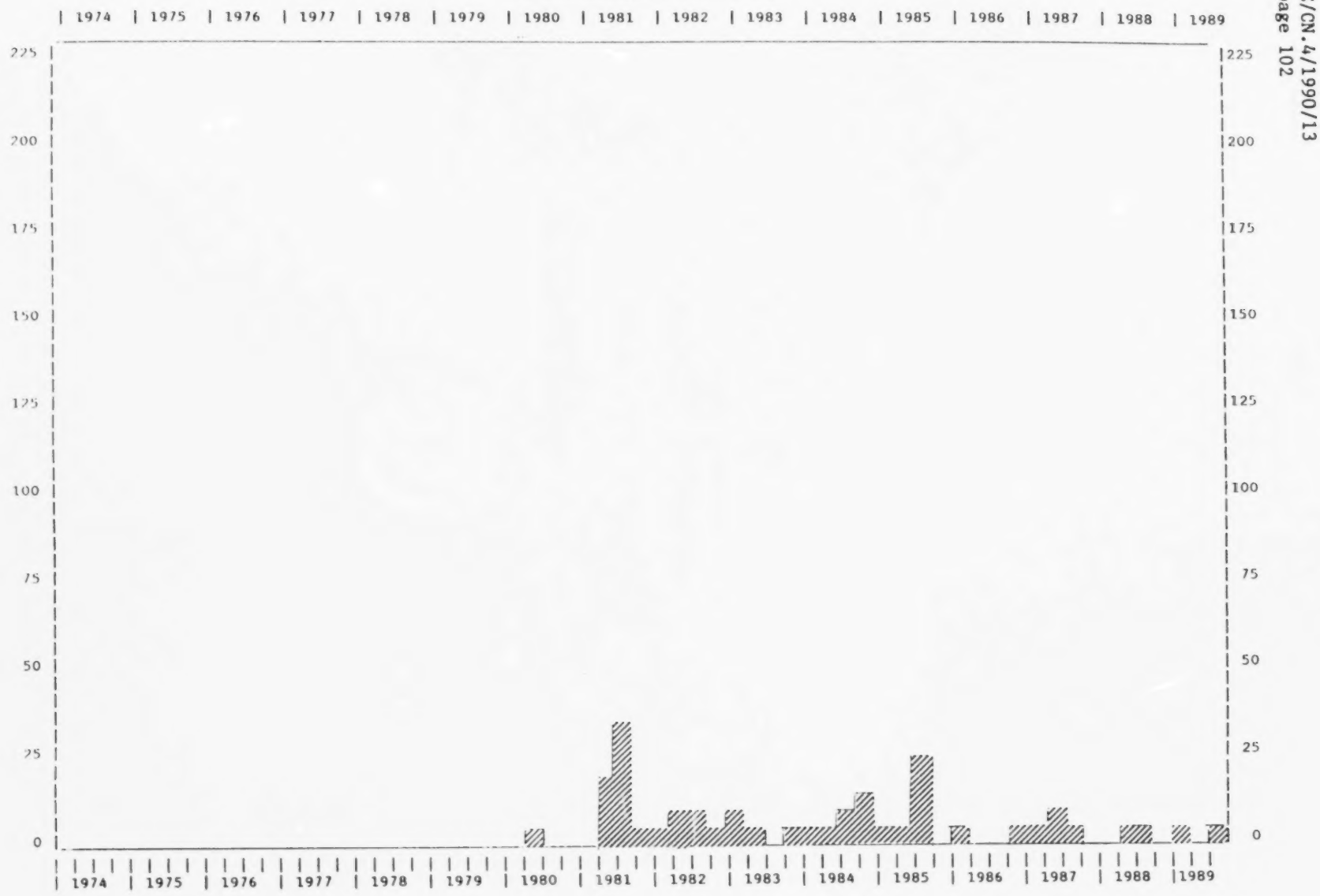
QUARTERLY NUMBER OF DISAPPEARANCES IN EL SALVADOR
OVER THE PERIOD 1974 - 1989



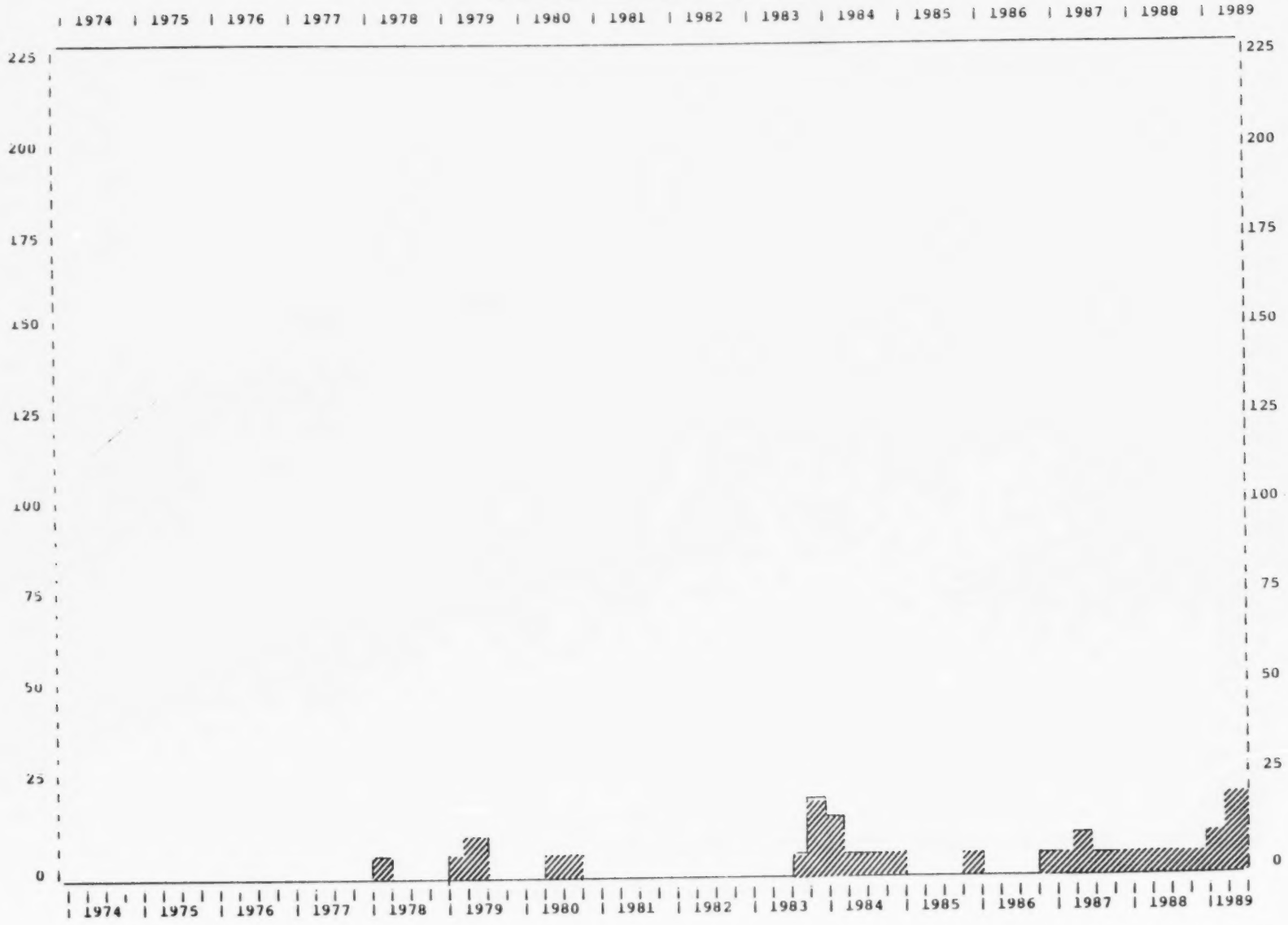
QUARTERLY NUMBER OF DISAPPEARANCES IN GUATEMALA
OVER THE PERIOD 1974 - 1989



QUARTERLY NUMBER OF DISAPPEARANCES IN HONDURAS
OVER THE PERIOD 1974 - 1989



QUARTERLY NUMBER OF DISAPPEARANCES IN INDIA
OVER THE PERIOD 1974 - 1989

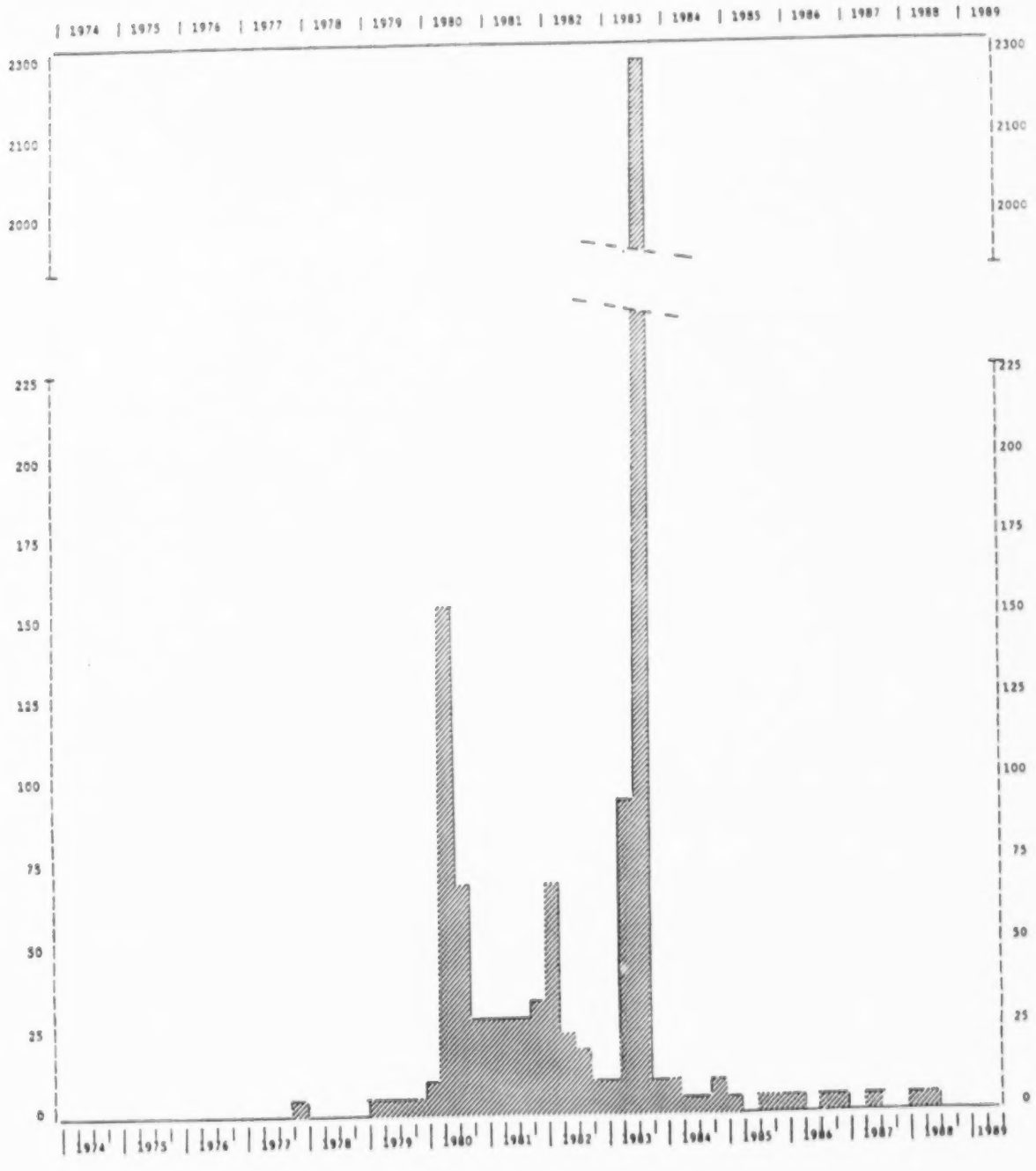


QUARTERLY NUMBER OF DISAPPEARANCES IN INDONESIA
OVER THE PERIOD 1974 - 1988

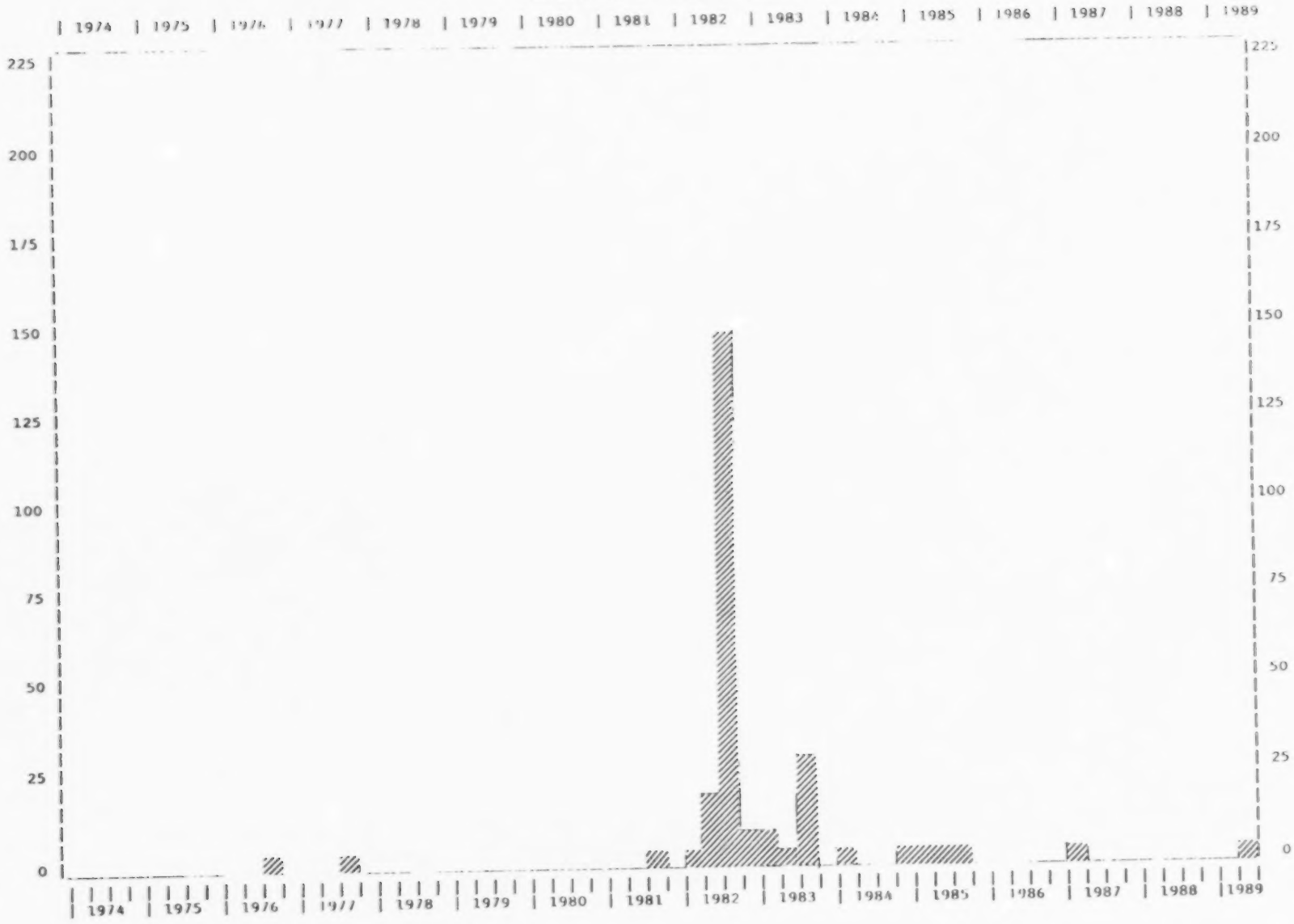
QUARTERLY NUMBER OF DISAPPEARANCES IN IRAN
OVER THE PERIOD 1974 - 1989

QUARTERLY NUMBER OF DISAPPEARANCES IN IRAQ

OVER THE PERIOD 1974 - 1989



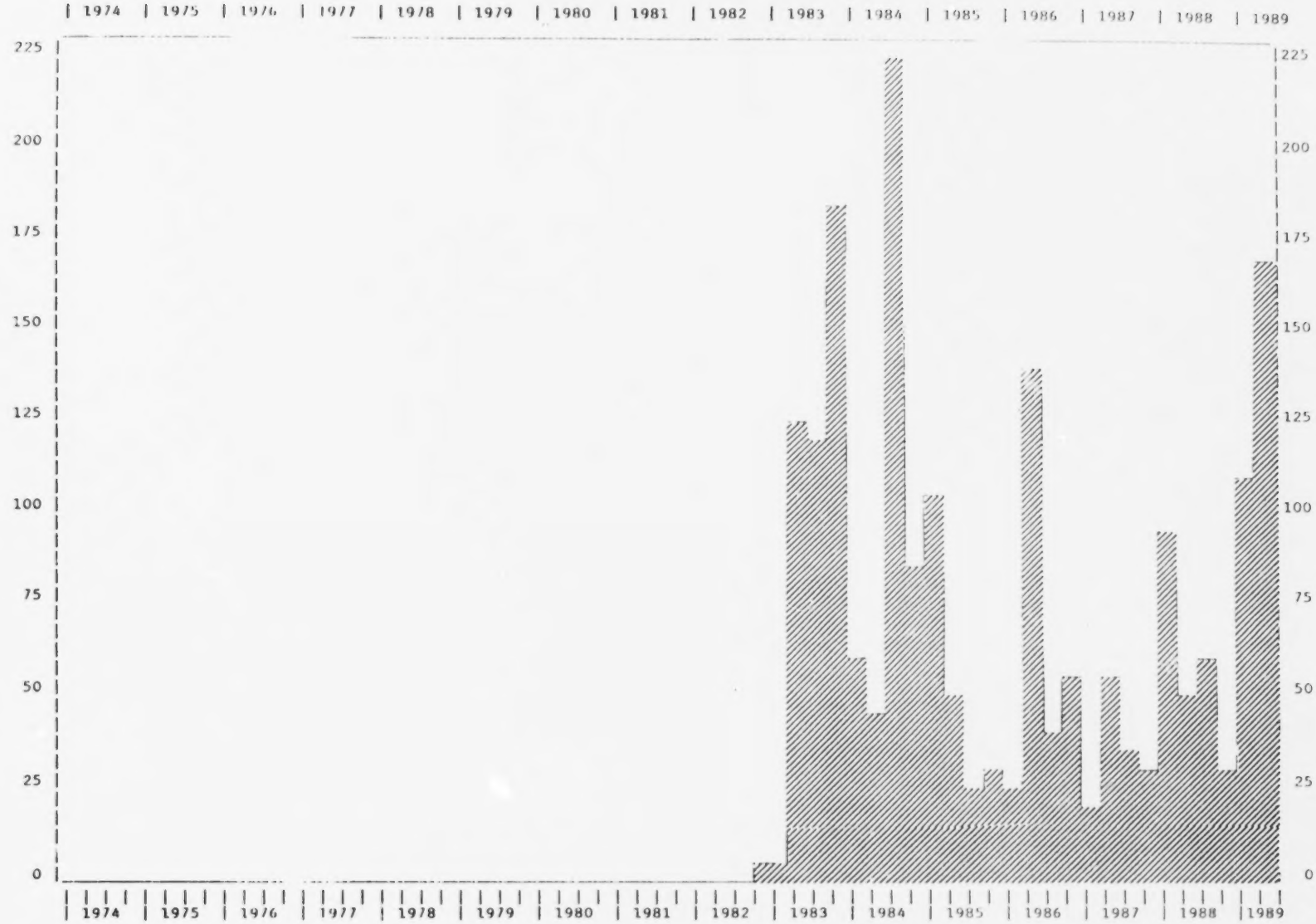
QUARTERLY NUMBER OF DISAPPEARANCES IN LEBANON
OVER THE PERIOD 1974 - 1989



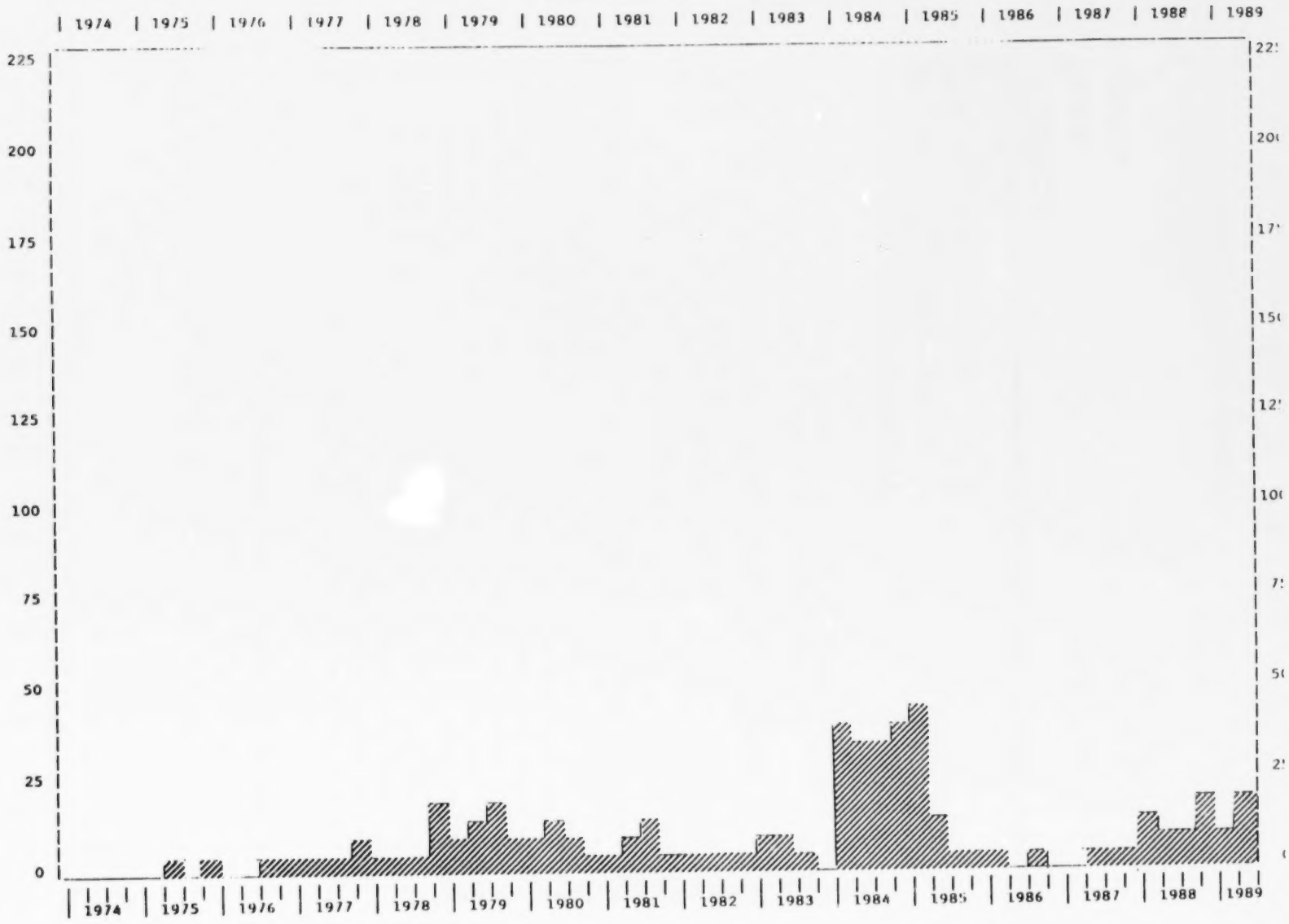
QUARTERLY NUMBER OF DISAPPEARANCES IN MEXICO
OVER THE PERIOD 1974 - 1989

QUARTERLY NUMBER OF DISAPPEARANCES IN NICARAGUA
OVER THE PERIOD 1974 - 1989

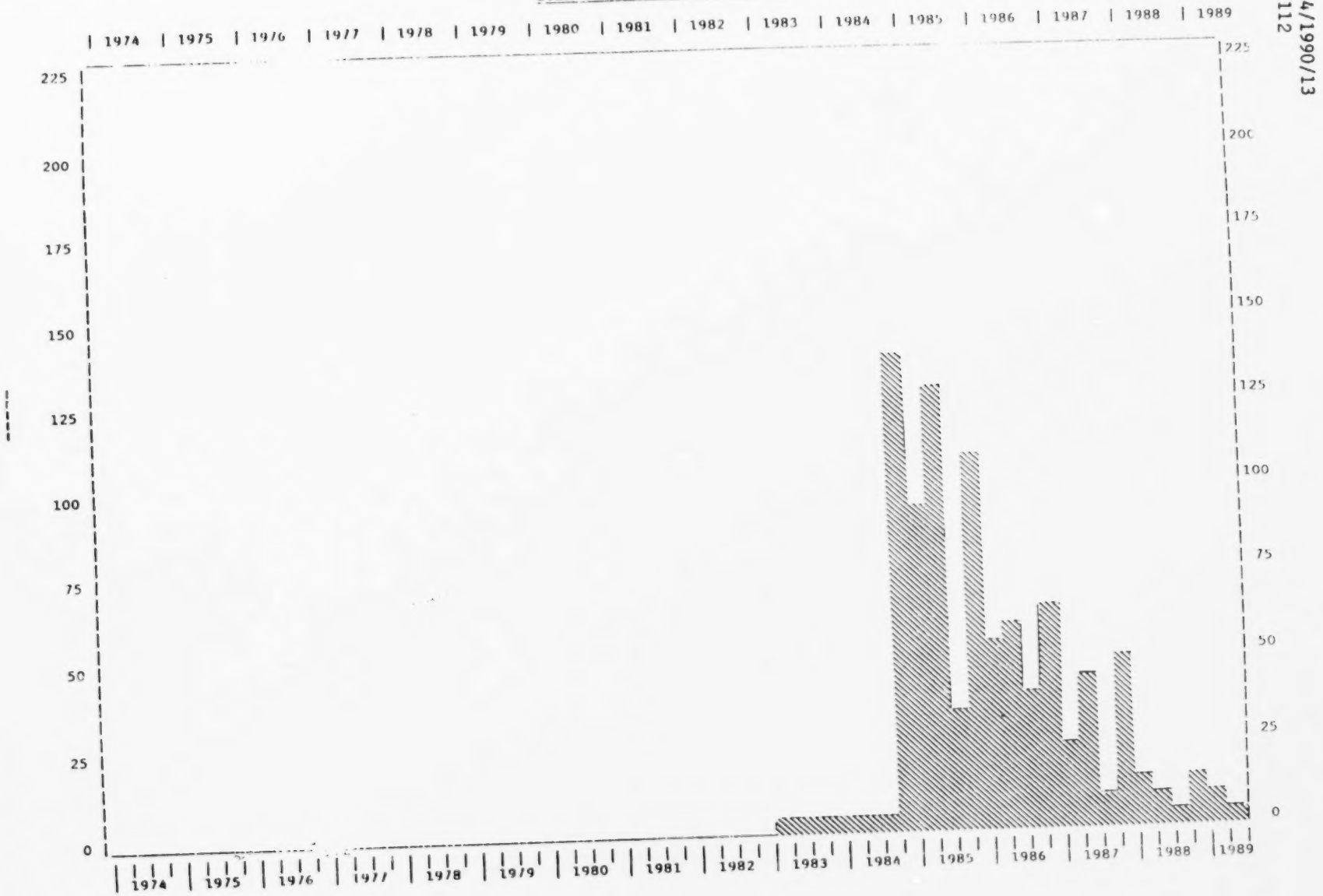
QUARTERLY NUMBER OF DISAPPEARANCES IN PERU
OVER THE PERIOD 1974 - 1989



QUARTERLY NUMBER OF DISAPPEARANCES IN PHILIPPINES
OVER THE PERIOD 1974 - 1989



QUARTERLY NUMBER OF DISAPPEARANCES IN SRI LANKA
OVER THE PERIOD 1974 - 1989



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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Detention of international civil servants and their families

Note by the Secretary-General

INTRODUCTION

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1987/21, dealt with the issue of the human rights of United Nations staff members and expressed deep concern that some 50 staff members were still detained, imprisoned, reported missing - some having even died in detention - or held in a country against their will. The Sub-Commission further stated that it was conscious of the fact that the rights of United Nations staff members should be given particular attention in view of the responsibility entrusted to the Organization in the area of human rights, and requested the Secretary-General to submit to the Sub-Commission, at its fortieth session, a detailed report on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, in order to enable the Sub-Commission to consider those cases in the light of the international instruments relating to human rights.

2. At its forty-fourth session, the Commission on Human Rights adopted resolution 1988/41 on this subject. In that resolution the Commission referred to its resolution 31 (XXXVI) of 11 March 1980, in which it had dealt with respect for the human rights of United Nations staff members. The

Commission also referred to Sub-Commission resolution 1987/21, and requested the Secretary-General to submit to it at its forty-fifth session an updated version of the report he had been asked to submit to the Sub-Commission at its fortieth session on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully settled during the five years preceding the Commission's forty-fifth session.

3. At its forty-fifth session, the Commission on Human Rights adopted resolution 1989/28 on this subject. In that resolution, the Commission took note of the report (E/CN.4/1989/19) by the Secretary-General as an updated version of the report on detention of staff members of the United Nations and its specialized agencies presented to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fortieth session (E/CN.4/Sub.2/1988/17). The Commission requested the Secretary-General to continue his efforts to ensure that the human rights and privileges and immunities of the United Nations staff members and experts and their families were fully respected and to submit to the Commission at its forty-sixth session an updated version of the report submitted to it at its forty-fifth session on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully settled during the year, as well as on the implementation of the measures referred to in paragraphs 3 and 4 of resolution 1989/28. The present report is submitted to the Commission pursuant to that request.

4. At its forty-first session, the Sub-Commission considered the preliminary report (E/CN.4/Sub.2/1989/28) entitled "Protection of the human rights of United Nations staff members, experts and their families" submitted by Mrs. Mary C. Bautista pursuant to its resolution 1989/9. The Sub-Commission adopted resolution 1989/30, in which it invited the Special Rapporteur to continue her study and to submit a report to the Sub-Commission at its forty-second session, with proposals for practical measures to improve the present system and ensure that staff members of the United Nations and the specialized agencies were protected.

5. In its resolution 43/225 of 21 December 1988 on respect for the privileges and immunities of United Nations officials, the General Assembly took note with concern of the report submitted by the Secretary-General (A/C.5/43/18), and of the developments indicated therein, in particular the significant number of new cases of arrest and detention and those regarding previously reported cases under that category. In the same resolution, the General Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, as well as the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions. The Assembly urged the Secretary-General to give priority to the reporting and prompt follow-up of cases of arrest, detention and other possible matters relating to the security and proper functioning of officials of the United Nations and the specialized agencies and related organizations.

6. Subsequently, the Secretary-General submitted to the forty-fourth session of the General Assembly his report on: "Personal questions: respect for the

privileges and immunities of officials of the United Nations and the specialized agencies and related organizations" (A/C.5/44/11) which will be circulated separately. With regard to that report and with particular reference to Annex 1, the Secretary-General would like to inform the Commission on Human Rights that Mrs. Taitu Ahmed was released on bail on 13 July 1989. The above-mentioned Report of the Secretary-General was introduced to the Fifth Committee by the Under-Secretary-General, the Legal Counsel. The text of his statement is annexed to this note.

ANNEX

10 November 1989

Introductory statement of Mr. Carl-August Fleischhauer
Under Secretary-General, the Legal Counsel

Mr. Chairman, distinquished delegates,

1. On behalf of the Secretary-General I would like to introduce for your consideration the Secretary-General's report concerning Respect for the Privileges and Immunities of Officials of the United Nations and Specialized Agencies and Related Organizations. This report is contained in document A/C.5/44/11 of 2 November 1989. It covers the period from 1 July 1988 to 30 June 1989. As in the past, the report is presented by the Secretary-General on behalf of the Administrative Committee on Co-ordination and is based on the information provided by its members.

2. From the inception of the United Nations, it was recognized by member States that for the exercise of the functions and fulfilment of the purposes of the United Nations, it is essential that the officials of the organization shall enjoy privileges and immunities necessary for the independent exercise of their duties (Article 105, para.1). The member States therefore agreed in the Charter to respect the exclusively international character of the responsibilities of the Secretary-General and the staff (Article 100, para.2). It goes without saying that these fundamental provisions play an important role in assuring the proper functioning, not only of the United Nations, but of the other international organizations as well whose constitutive instruments contain similar provisions. As far as the organizations of the United Nations system are concerned, these basic provisions were further developed in such important instruments as the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, the Agreement on the Privileges and Immunities of the International Atomic Energy Agency, Headquarters Agreements, and the United Nations Development Programme Standard Basic Assistance Agreements which have obtained an impressive degree of participation by member States.

3. Respect for the privileges and immunities of officials of the United Nations an other organizations continues to be of the highest importance. The United Nations and other organizations have for more than one year now been entrusted by their member States with new important responsibilities in various parts of the world. Several new peace-keeping operations established during the reporting period are the most vivid examples of such expanding activities. A similar growth in responsibilities is taking place in the economic, humanitarian, ecological and other fields. All these new responsibilities shouldered by the United Nations and other organizations at the request of their member States, make it even more imperative that the privileges and immunities of international officials performing functions in connection with activities of their organizations are duly respected. It is in this spirit that the United Nations General Assembly at its forty-third session called upon all member States scrupulously to respect the privileges and immunities of all officials of the United Nations, specialized agencies and related organizations and to refrain from any acts which would impede such officials in the performance of their functions thereby seriously affecting the proper functioning of the Organization.

4. The present report is structured so as to underline the major areas still giving rise to serious concern on the part of the Secretary-General and the Executive Heads of the specialized agencies and related organizations. Particular attention is given to the alarming situation with respect to cases of arrest, detention and abduction of officials. It must be recognized with deep regret that notwithstanding all efforts, the number of cases of arrest, detention and abduction has remained extremely high during the reporting period and that the Middle East, in this regard, is an area of major concern.

5. One cannot speak without sadness and deep sorrow about the tragic events surrounding the still uncertain fate of Lieutenant Colonel William Higgins, a senior official serving wth the United Nations Interim Force in Lebanon. This case, which has received particular attention because of its unprecedented nature, highlighted once again the seriousness of the situation and caused alarm about the destiny of other missing staff members, as well as those arrested and detained without any justification.

6. As indicated in the report, the number of cases of arrest and detention without charge or trial, in particular of staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, remained very high. In this regard, I would like to refer to only one of the cases that occurred after the reporting period, but serves as an example of the gravity of the situation in the area. On 18 October 1989, Israeli security forces entered UNRWA premises at one of the distribution centres in the Gaza Strip. They searched the offices of that centre and examined the official UNRWA document files. Obviously, such actions were protested by UNRWA staff members present and as a consequence these staff members were arrested with the use of force and one of them was badly assaulted. These staff members were released after being charged with offences.

7. The United Nations and other organizations continue to encounter resistance in obtaining access to arrested or detained officials in order to provide them with the necessary assistance and to determine whether there has been any breach of the respect for the privileges and immunities of the officials concerned. The organizations continue to face difficulties in obtaining adequate and timely information on the reasons for arrest and detention.

8. Detailed information regarding cases of arrest, detention, abduction or loss of life of officials during the reporting period is contained in paragraphs 8, 9, 10, 12 and 13 as well as in Annex II of the report. In these parts of the report the attention is drawn to some particularly alarming cases, such as, for example, the death in prison on 17 December 1988 of Mr. Zeidan Jassin. Annex I provides a consolidated list, prepared in chonological order of those staff members who continue to remain under arrest and detention or missing on 30 June 1989 and with respect to whom the United Nations and specialized agencies and related organizations have been unable to exercise fully their right of protection. Regrettably, it should be mentioned that instances similar to those referred to in paragraph 13 of the Report, where staff members of the United Nations and FAO were unlawfully expelled from the country, have recently occurred with three ILO staff members as well. It should also be noted that since the submission of the present report for publication as a document, a team of two ECA and two WHO officials, including a doctor, was granted access on 8 September 1989 to Ms. Guenet Mebrahtu. Information about her case is contained in paragraph 5 of Annex II of the report.

9. It should be noted, however, with some satisfaction that persistent efforts undertaken by the Secretary-General and designated officials have not been entirely in vain and have, on occasion, produced positive results. Thus, it has been possible to achieve the release of many staff members who have been previously reported as being under arrest or detention. In this regard, the strong support and tireless efforts of the staff unions should also be given due recognition. Information about these cases is contained in paragraph 11 of the report.

10. As far as the issue of travel restrictions is concerned, the Secretary-General's report notes with regret that there has been no improvement in the situation with official travel of UNRWA staff members of certain nationality into and out of the West Bank and the Gaza Strip. Similar problems were encountered by UNCTAD.

11. The restrictions imposed in previous years by the United States on travel beyond a 25-mile radius of Columbus Circle in New York City by staff members of particular nationalities were expanded to include the private travel of staff members from the People's Republic of China. As was stated in the previous report, these restrictive measures are considered by the Secretary-General as being contrary to the concept of the international civil service, since they envisage discriminatory treatment of staff members on the basis of their nationality. It is sincerely to be hoped that with a general improvement in the political climate of the international community such restrictions will be lifted sooner rather than later.

12. On a number of occasions in the past, the Secretary-General has drawn attention to attempts by certain member States to impose taxes on the salaries of staff members of their nationality. The Secretary-General on all these occasions emphasized that such actions come into conflict with existing international instruments, in particular with the provisions of the Conventions on the Privileges and Immunities of the United Nations and of the Specialized Agencies. Unfortunately, during the reporting period there were new instances of some countries trying to impose taxes on the salaries of staff members. The report in paragraph 17 addresses this problem in general terms and in paragraphs 18-21 refers to particular cases.

13. The United Nations and other organizations continued, in the reporting period, to follow the policy, the main features of which were outlined at the thirty-ninth session. The United Nations Security Committee has closely followed up the cases involving disregard for the privileges and immunities of officials and the United Nations Security Co-ordinator has served as a focal point for sharing the flow of relevant information with the United Nations system. The Secretary-General and the Executive Heads of the agencies and related organizations have personally intervened where the situation so required. In this regard, I would like to bring to your attention the part of the statement of the Secretary-General on 15 September 1989 on the occasion of Staff Day. Speaking to the staff, the Secretary-General said the following:

> "You may be sure that, in my capacity as Secretary-General of this noble Organization, I shall do everything in my power to resolve all instances of injustice to staff members. I will also urge member States to extend to staff members not only the protection which they need, but also the treatment to which they are entitled by virtue of being international civil servants."

14. Respect for the privileges and immunities of officials is not a theoretical question. It is a practical requirement necessary for the independent exercise of the functions entrusted to the international organizations. It can be achieved if all member States refrained from any acts that would impede staff members in the performance of their functions, and if the staff of the United Nations and other international organizations strictly comply, while performing these functions, with the provisions of the relevant staff rules and regulations. Let me express the hope that the discussion in the Fifth Committee will contribute to the successful achievement of this goal.

Thank you Mr. Chairman.